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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father, creator and sustainer of our lives, thank You for the gift of freedom. Lord, we are grateful for the religious, political, and social freedoms that bless our lives. Remind our lawmakers to think seriously about the blessings of liberty as they help people to reflect soberly about the cost of protecting our democratic way of life.

Raise up on Capitol Hill people who are true to You and who will follow wherever You lead. As they accept Your guidance, lift their burdens and keep them from being bogged down by trying to carry their problems without Your strength.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first 30 minutes and the majority will control the final 30 minutes.

Following morning business, we will resume consideration of the small business jobs bill. I will continue to work with the Republican leader today on an agreement to consider amendments to the bill. If we are able to reach an agreement, we will have votes on amendments today.

Last night, I filed cloture on the substitute and the underlying bill, two cloture motions. As a result, the filing deadline for germane first-degree amendments is at 1 p.m. today.

Senators will be notified when an agreement is reached and votes are scheduled.

MEASURE PLACED ON THE CALENDAR—S. 3657

Mr. REID. Mr. President, S. 3657 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for a second time.

The assistant legislative clerk read as follows:

A bill (S. 3657) to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

Mr. REID. I object to any further proceedings on this bill.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

Mr. REID. Would the Chair announce morning business.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Senator from Nebraska is recognized.

PAPERWORK MANDATE ELIMINATION ACT AMENDMENT

Mr. JOHANNS. Mr. President, I rise to talk about small businesses. I think we all know and recognize—certainly they do—that small businesses and businesses in general face a mountain of paperwork to comply with a whole host of regulations, most notably our very complex tax laws. Instead of trying to aid that, now Washington is increasing that paperwork mountain through a new 1099 mandate found in, of all places, the new health care bill. This mandate has absolutely nothing—absolutely nothing—to do with improving health care of this country, and it

should not be a part of that law or any other law, for that matter. Thus, I am offering an amendment to repeal this mandate.

The amendment says no to piles of unnecessary paperwork which the IRS itself admits is going to be virtually useless. Any taxpayer with business income will be required to issue 1099 forms to all vendors from whom they buy more than $600 of goods or services in any year. So now the most routine business expenses will be subject to this new burdensome paper trail.

Let me give my colleagues some examples. A laundromat that buys soap each week would now have to issue a 1099 to their supplier and the IRS at the end of the year. A landscaper who buys lawn fertilizer a couple of times a month will now be forced to issue 1099s to the companies they do business with, and no one is excluded. The law applies equally to businesses and churches and charities and even State and local governments.

A recent cnnmoney.com article suggests that the cost of the new paper trail could literally swamp small companies. One small business organization conducted a survey and found that their members currently average about 10 1099 filings per year. The new rules would push that average to more than 200 filings—200 filings—per year, an almost 2,000-percent increase. Of course, their costs for that would skyrocket.

According to the National Federation of Independent Business:

> At $74 per hour, tax paperwork is the most expensive paperwork burden placed on small businesses by the Federal Government.

Small businesses have been hit so hard by this recession, they just simply cannot afford this new burden. We need to give them a break. They are imploring us to do something to help them.

According to the National Taxpayer Advocate, which is part of the IRS, this provision will affect—get this—40 million businesses in the United States, including 26 million of our very smallest businesses, our sole proprietorships.

Americans are desperately searching for jobs. They want to work. These businesses should be focused on growing, not be wasting their resources on unnecessary paperwork that the government won't even utilize.

The amendment I introduced is clear. It simply repeals the section of the law requiring the extra paperwork. I might add, it is paid for. It identifies two areas within the health care law to fully offset the repeal of this mandate. First, by lowering the affordability exemption from the new individual mandate from 8 percent to 5 percent, fewer individuals will be subject to the individual mandate.

The new health care individual mandate infringes on individual freedoms of Americans and, in my view, it has constitutional problems. People who did not want to buy government-approved insurance in the first place are compelled to buy it under the new law. Thus, exempting more people, especially the poorest among us, from this absolutely ill-advised mandate is a good thing. These folks may be living paycheck to paycheck and requiring one more thing to come out of that paycheck instead of making the mortgage payment or buying the groceries is not right. Thus, allowing more people to decide for themselves whether they buy health insurance when they look at all their other obligations is a positive.

Let's be clear. My amendment does not restrict these individuals from buying health insurance or signing up for government subsidies. My amendment simply says, if they don't want to, they don't have to.

Second, the new health care law establishes a $15 billion, what I would regard as a slush fund for a long list of potential uses by the Obama administration, including the Community Transformation Grants Program. I generally support wellness programs. I believe in wellness. Who doesn't believe in wellness? However, concern has been raised that this fund will be used for a number of purchases that aren't specifically related to healthy outcomes. Thus, my amendment proposes that this fund not be allocated resources until 2018 to help offset removing this 1099 provision. It decreases the amount in this $15 billion fund; it doesn't eliminate it, but it does give us time to get it right. Besides, this delay gives us more time to ensure that only worthy projects utilize taxpayer money. These outlined pay-fors will cover any government revenue that might be lost by this ill-advised 1099 provision. With record deficits, we must be accountable for tax dollars, so this amendment is fully offset.

Small businesses generate 64 percent of our job growth in this country. We need them. We need them to move us toward economic recovery. Let's send a message that we want them to focus their time and money on hiring workers, on expanding our economy, not filling out unnecessary paperwork that even the IRS acknowledges is so overwhelming it will not be utilized.

My hope is, we will get a vote on this amendment later today, and I ask my colleagues to stand for small businesses, to stand by them, and to send the message to them that we want them creating jobs. I ask my colleagues to support this very commonsense amendment.

I yield the floor and I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I am going to proceed in my leader time.

The ACTING PRESIDENT pro tempore. The leader has that right.

DEFLECTING ATTENTION

Mr. MCCONNELL. The small business bill we are now considering has an interesting history, and given the President's recent statements on the bill, it is worth recounting that history.

Remember, we got on this bill in June. But then Democrats took us off of it to move to financial regulation. Then last week, they took us off of it again to move to the DISCLOSE Act.

So if the President wants to criticize somebody about slowing this bill down, he simply has the wrong party. He needs to direct his criticism at Democrats, not Republicans.

The fact is Democrats had other priorities. They thought it was more important to impose job-killing regulations on the financial industry and give even more authority to the kinds of regulators who missed the last financial crisis.

They also thought it was more important to shut up their critics ahead of the fall elections by pushing a bill that amounted to an all-out assault on free speech.

These are the things Democrats have been doing instead of the small business bill. Yet the President continues to claim that somehow Republicans are the problem. Well, it is obvious what they are doing: They want to deflect attention away from the fact that trillions of dollars in government spending and debt has failed.

Spending, debt, regulations, more government—none of it has worked. Now they want to raise taxes on the very small businesses that are trying so desperately to create jobs.

It is time to change course and to do something that will create lasting private sector jobs and get us moving in the right direction.

Democrats can try to deflect attention away from their failed policies all they want, but the consequences of their actions are obvious to the American people.

It is time to put aside the liberal wish list and allow America's small business men and women to do something that has a chance of reviving this economy. Spending, debt, and tax hikes are the last things we need.

Republicans have offered a number of ideas to improve the small business bill and, until now, those amendments have been obstructed by the other side and, along with them, the bill itself.

I am encouraged to see that the majority has changed its mind and now seems committed to staying on this bill, allowing votes on Republican better ideas, and working with us on something other than raising taxes, growing the debt, or burying job creators in a sea of new regulation.

ENERGY

Mr. President, it is perfectly obvious that Democrats are doing their best to keep us from passing a serious energy bill before the August recess.

Later today, we expect the majority leader to offer the Democratic alternative to the oilspill response that the Republicans proposed last week.

This is not a serious exercise. All indications are that they don't intend to have a real debate about one of the most important issues we face. Anybody who has been here for any period of time knows that energy bills take at least a couple of weeks. So it doesn't appear there is either the time or the willingness on the other side to debate this critical issue.

We would have liked to have had a debate on ideas we have already offered. Our energy bill would give the President the ability to raise the liability caps on economic damages done by companies such as BP, without driving small independent oil producers out of business.

It would lift the administration's job-killing moratorium on offshore drilling as soon as new safety standards are met—a moratorium that one senior Gulf State Democrat says could cost more jobs than the oilspill itself. How can you have a serious energy debate without addressing a problem that a leading Gulf State Democrat said is costing more jobs than the oilspill itself?

Our bill has a true bipartisan commission—with subpoena power—to investigate the oilspill, rather than the President's antidrilling commission.

Importantly, it also takes good ideas from Democrats, including Senator BINGAMAN's idea for much needed reform at MMS. Surely, we can all agree that this administration's oversight at MMS is in need of major reform.

Our bill includes revenue sharing for coastal States that allow offshore drilling to help them prepare for and deal with disasters such as the one we have right now in the gulf.

We have our own ideas, we have some of their ideas, and our bill doesn't kill jobs; it doesn't put a moratorium on production.

We are not interested in yet another debate about a Democratic bill in which the prerequisite is killing more jobs.

Our bill would address this crisis at hand. Their bill would use the crisis to stifle business and kill jobs in a region that is in desperate need of jobs.

It was my hope we could have a real debate about energy. Clearly, the majority—at least so far—isn't interested in that debate.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

ENERGY REGULATIONS

Ms. MURKOWSKI. Mr. President, it has now been 99 days since the Deepwater Horizon drill rig caught fire and sank to the ocean floor. That incident—and the millions of barrels of oil that have spilled into the Gulf of Mexico since it began—has made it absolutely clear that our Nation's offshore energy regulations need to be reformed. Even in a Congress as deeply and bitterly divided as this one, the fact that we are living through a terrible environmental disaster, caused at least in part by certain failures of the government, should be more than enough for us to work in good faith and reach consensus on a path forward.

For the past 3 months, that is exactly what the members of the Energy Committee have sought to develop. We have been working toward a responsible path that is acceptable to all—or at least most—of the Members of the Senate. We started by holding four major hearings on the gulf spill. This allowed us to build a record within the committee on everything from blowout preventers to certificates of financial responsibility. Our committee worked very hard on this. We spent countless hours working on legislation to repair the failed offshore regulatory system. We concluded our efforts last month, after all these series of hearings, and we unanimously passed legislation, S. 3516, the OCS Reform Act, out of committee unanimously. Around here nowadays, sometimes it is tough to get not only that real good committee work product but then to see that move through committee unanimously. It is not easy, and it is certainly not a perfect bill, but it was a fair and open process. I would like to think that our hard work within the committee and the negotiating that went on, and our very open markup and amendment process—what we did was the best of the Senate. It was an open and fair and a deliberative process. You would think that would go somewhere. But once that bill left committee, it became clear that some people cannot take yes for an answer, and that good committee product was not going to be advanced.

About the time we were marking up the MMS bill, we witnessed a deeply misguided effort to tie oilspill legislation to cap and trade. I think this was an attempt to literally convert one disaster into another. We were told that cap and trade was somehow or other going to end our dependence on oil and hold polluters accountable and prevent future spills. Then an analysis of cap and trade from the EPA itself showed that cap and trade would have almost no effect on our Nation's oil consumption—not now and not over the course of the next 40 years. After nearly 19 months of vote counting, I think the majority was forced to admit the obvious: There are not 50 votes, let alone 60, for cap and trade in the Senate.

What we now have before us is this coming together, or slapping together, of the Clean Energy Jobs and Oil Company Accountability Act—the bill that members of the press and the lobbyists received before my staff on the Energy Committee. A draft came out last night around 10 o'clock. I am told it will be officially introduced sometime this morning.

Again, this is such a disappointment. Instead of an open and transparent process as we did through our committee, what should and what could have been a bipartisan bill was hashed out in secret, written behind closed doors with very few Members of the Senate, least of all Members from the Gulf States, allowed to provide any level of input.

Since its 409 pages of text were released late last night, we have not had time to thoroughly review it, to develop amendments, negotiate improvements, or even decide if it is worth supporting yet. We have instead been told the majority leader is unlikely to allow amendments to be considered—unlikely to allow any amendments to this just-cobbled-together bill.

I can only imagine it is because there are provisions that are contained in this bill to which he does not want to draw attention, much less talk about and vote on. The phrase, ''rush to judgment,'' is used a lot around here. I challenge my colleagues to find a more flagrant example of that than what we have in front of us with this bill.

We talk around here about why Congress's approval ratings are as low as they are. We are at about 11 percent right now. It is bills such as this—when people look at this and say, How did this come about, what happened to the committee bill—that makes cynics out of all of us, especially when we know there is a very serious problem that demands a quick and robust policy response.

Instead of working together to fix the problems, the majority leader's bill would undoubtedly create more problems. The Senate's process and our traditions have just been left in the ditch. Decisions have been made almost exclusively in secret behind closed doors. Republicans were shut out of the room. But, of course, we are going to be blamed for holding up the bill.

One has to ask the question, Does anyone honestly believe that we in the Senate can pass something by Friday or perhaps early next week that we did not even see the light of day on until this morning?

I suggest that from every procedural vantage point, it seems as if the majority's goal has been to drive a stake into the heart of anything that can attract Republican support. The staging of this bill has been choreographed to ensure partisan opposition so the majority can blame us for the problems they are making even worse, such as the job losses from the moratorium, the increase in reliance on foreign oil—which, of course, we know is coming—the injustice of Federal OCS revenues never reaching coastal States such as in Alaska and the gulf where they derive in the first place.

The Democratic caucus can try to pass this bill as introduced without

amendment and with almost no debate, but I suggest this will be nothing more than a Pyrrhic victory. Like the stimulus, like health care, like financial reforms, it will give folks something to talk about, but it will only worsen the problems it is meant to deal with.

Unfortunately, it will come at the expense of a far better bill, a bill that was introduced last week by the Republican leadership team. Let me talk a couple minutes about the bill that has been introduced.

It starts at the root of the problem—the already apparent shortcomings with offshore regulations and at the Minerals Management Service, MMS. It includes the OCS Reform Act that we moved through our committee, reported unanimously by all 23 members of the Senate Energy Committee. Permitting and best available commercial technology requirements are strengthened to enhance the safety and the integrity of offshore operations. We also codify a complete reorganization of MMS. We remove the President's offshore moratorium once new safety requirements have been met. We establish strict liability limits for each project based on a range of risk factors. There is a series of 13 different risk factors that would be relevant. We include a bipartisan commission to investigate what went wrong with Deepwater Horizon. And, finally, we right a longstanding wrong by returning a large share of production revenues to the coastal States.

It has been suggested in one of the Hill publications this morning—a Democratic staffer is quoted as saying this Republican package was hastily thrown together. I remind that Democratic staffer or others who are looking at this that almost all of what is contained in this Republican package was introduced 1 month ago today, as a matter of fact, in an oilspill compensation act I introduced. We include that with the component pieces of the OCS Reform Act that was passed unanimously by the committee. To suggest this has been somehow hastily cobbled together, one needs to go back and look at the fact that it has been out there for public review and scrutiny now for almost 1 month.

As much as I will push back against the decision to race to finish this bill, we must—we absolutely must—have more debate on these issues. The majority, with very commanding numbers in both Houses and control of the White House, may want to try to somehow blame Republicans for the thousands of lost jobs from Alabama to our State of Alaska as well as the administration's failure to protect and restore the gulf's offshore environment. But that strategy will fail.

We are offering a more responsible and dramatically less costly piece of legislation that truly deserves to be considered and passed by the full Senate.

I wish the majority would take that same path instead of deciding, judging from the development of the bill and its actual content, that it is time we give up on policy for the year and focus instead on just messaging.

We need to look at the terrible toll we all know is taking place as a result of the Deepwater Horizon spill, the obvious failure of our offshore regulatory system, and of the growing economic consequences of the administration's offshore moratorium.

It is absolutely crystal clear there is action that needs to be taken. There is policy that needs to be put in place to respond to the oilspill, the environmental devastation, the economic devastation, and the regulatory confusion that was in place. It is not time for the politics or partisan activities. It is not time to roll the dice with our Nation's energy policy. For the continued vitality of an entire region in the United States, it is imperative that we move beyond the message and we provide the policy and the legislative response that is so necessary and so needed.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEVISING SUPREME COURT PROCEEDINGS

Mr. SPECTER. Mr. President, I have sought recognition to address the subject of televising the Supreme Court of the United States. Legislation is pending on the Senate docket which was voted out of the Judiciary Committee by a vote of 13 to 6, and it is particularly appropriate to consider this issue at a time when we are examining the nomination of Solicitor General Elena Kagan for the Supreme Court.

We have seen, in a series of nomination proceedings, the grave difficulties of getting answers from nominees as to their philosophy or ideology, and that is particularly important when the Supreme Court has become an ideological battleground. There is a great deal of lip service to the proposition that the courts interpret the Constitution and interpret legislation as opposed to making law, but the reality is that on the cutting edge of the decisions made by the Supreme Court, the decisions are based on ideology. Therefore, for the Senate to discharge its constitutional duty on advise and consent—on the consent facet, to have an idea of where nominees stand—there is an adjunct to that consideration; that is, to find a way to have the nominees follow the testimony they give.

We have found that in notable cases—the most recent of which is Citizens United—two of the Justices made a 180 degree about-face. Both Chief Justice Roberts and Justice Alito testified extensively about reliance upon Congress for factfinding under the obvious proposition that Congress has the ability to hear witnesses and make factual determinations. Chief Justice Roberts was explicit in his testimony that when the Court takes over the factfinding function, that it is legislation which is coming from the Court decisions.

Similarly, those two Justices were emphatic on their view of stare decisis, and there was a 180-degree about-face in Citizens United on precedent which lasted for 100 years, and now corporations may engage in political advertising. So the issue is one of trying to deal with some level of accountability.

The principle of judicial independence is the bulwark of our Republic. It is the rule of law which distinguishes the United States from most of the other countries of the world. The independence of the judiciary is assured by the fact they serve for life or good behavior. The suggestion that the Court be televised is in no way an infringement upon judicial independence.

We are not suggesting how the Justices should decide cases, we are saying to the Justices that the public ought to know what is going on. Recent public opinion polls show that 63 percent of the American people favor televising the Supreme Court. When the other 37 percent was informed that the Supreme Court Chamber only holds a couple hundred people and that when someone arrives there they can only stay for 3 minutes, that number in favor of televising the Court rose to 85 percent.

The highest tribunal in Great Britain is televised. The highest tribunal in Canada is televised. Many State supreme courts are televised. The press—the print media have an absolute right to be present in the proceedings under Supreme Court decision. So why not the Supreme Court?

This comes into sharp focus on the factor that there has been an erosion of congressional authority by what the Supreme Court has done. In the course of the past two decades—really, 15 years—the Congress has lost a considerable amount of its authority—some taken by the Court and some taken by the executive branch. The Court has taken greater authority.

In 1995, with the decision of United States v. Lopez, on the issue of caring guns into a school yard, for 60 years there had been no challenge to the authority of Congress under the commerce clause. That followed the legislation declared invalid under the New Deal of Franklin Roosevelt in the 1930s and led to the move to pack the Court. But since that time, the commerce clause has been respected.

The case of United States v. Morrison, involving legislation protecting women against violence, was another case diminishing the power of Congress. In a 5-to-4 decision, the Supreme Court declared that act unconstitutional because of Congress's ''method of reasoning.'' One may wonder what

the method of reasoning is in the Supreme Court Chamber, a short distance beyond the pillars of the Senate. What happens when a nominee leaves the confirmation proceedings and walks across Constitution Avenue? Do they have some different method of reasoning?

The fact is, there has been a reduction in the authority of the Congress. The Court has further taken authority from the Congress in a series of decisions interpreting the Americans with Disabilities Act. Two cases—Alabama v. Garrett and Tennessee v. Lane—came to opposite results with 5-to-4 decisions. In the case of Tennessee v. Lane, the Americans with Disabilities Act was upheld when a paraplegic sued because he couldn't gain access to a courtroom because there was no elevator. With a shift in the vote of Justice Sandra Day O'Connor in Alabama v. Garrett, the section of the Americans with Disabilities Act was declared unconstitutional dealing with employment.

In the case of Alabama v. Garrett, the Court applied a test called congruence and proportionality. Up until the case of City of Boerne in 1997, the standard had been a rational basis. But a new standard was articulated—congruence and proportionality—which is impossible to understand.

Justice Scalia correctly asserted that it was a ''flabby test,'' designed to give the court flexibility to engage in judicial legislation.

When nominee Elena Kagan was asked which standard she would apply, the rational basis test or the congruence and proportionality test, she declined to answer. That certainly fell within the ambit of Ms. Kagan's now famous 1995 Law Review article, where she chastised Justice Ginsburg and Justice Breyer for stonewalling in their nomination hearings, and also the Senate for not getting information to help in discharging our duty to consent to Supreme Court nominations.

One approach with television would be to hold some level of accountability when the public understands what is going on. Louis Brandeis, before he came to the Supreme Court, in a famous article in 1913 advocated that the sunlight was the best disinfectant and publicity was to deal with social ills. Stuart Taylor, noted commentator on the Supreme Court, said the only way to have the Court stop taking away power from the Congress and from the executive branch is by infuriating the public.

To infuriate the public, the public has to be informed, and television would be a significant step forward.

FOREIGN TRAVEL

Mr. SPECTER. It has been my custom to make a report to the Congress and my constituents and the general public when I return from a trip, which I did on July 11, having started on July 3, and having visited the Czech Republic, Israel, Syria, and Croatia. I will ask at the conclusion of my comments the full text of my prepared statement be printed in the RECORD.

A few supplementary comments about my visits to Israel and Syria: The Mideast peace process is of enormous importance, not only to that region but to U.S. national security interests and to the interest of peace in the world. The Palestinian track seems to be stuck with the controversies over the neighborhoods, also referred to as the settlements. But the administration is hard at work through special envoy former Senator George Mitchell moving ahead on that line.

I believe the time is ripe now for movement on the Israel-Syria track. I say that based on the conversations I had with Israeli and Syrian officials. I was invited to come to Damascus. I have been to Syria on many occasions in the past, starting in 1984. I have been there some 19 times. This was the first time that I received a specific invitation from President Bashar al-Assad to come there. I believe that is an indication, which President Assad is very open about, of his interest in having peace talks with Israel without preconditions.

He immediately follows that with a statement that Syria has a right to the Golan Heights. But it is no surprise that this is being asserted from the Syrian point of view.

Only Israel should decide for itself whether it wishes to trade the Golan for other national security interests, for concerns about Hezbollah and Hamas and the link with Iran—whatever effect there may be with the Iranian-Syrian relationship and the stabilization of Lebanon. But it is a different world today than it was in 1967 in an era of rockets, so the security interests are very different.

The Israelis and the Syrians came very close to a peace agreement in 1995 and again in the year 2000. Turkey had been brokering talks between Israel and Syria, but the Turkish envoys have withdrawn after the so-called flotilla incident, asking Israel for an apology. Since none is forthcoming, the Turks are not brokering that issue. So it seems to me with the role the United States played, the very active role of former President Clinton—with U.S. participation I believe the prospects are good and there could be a treaty there.

Israel has significant potential gains—to stop the shelling by Hamas from the south and the threat and potential shelling from Hezbollah from the north, and also the relationship between Syria and Iran. President Assad said to me that Iran supports Syria, but Syria does not support Iran. With the recent action by Syria in changing the veiling requirement, it is an indication that Syria is pursuing being a secular state with significant differences from the practices in Iran. If it should become the national interest of Syria to side with the West, that is a potential which ought to be explored. It is not going to happen overnight, but it is something worth thinking about and worth considering.

I now ask unanimous consent that the full text of my prepared statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President—As is my custom, when I return from foreign travel, I file a report with the Senate.

From July 3 to July 11, 2010, I traveled to the Czech Republic, Israel, Syria, and Croatia.

CZECH REPUBLIC

I arrived in Prague on Sunday, July 4, 2010 after having departed Washington, D.C. on Saturday with a brief overnight stay in England. This was my first trip to Prague since Czechoslovakia peacefully split into the Czech Republic and Slovakia in 1993. The evening of my arrival in Prague, I dined with U.S. Ambassador John Ordway, who is serving as the Chargé d'Affaires of the U.S. Embassy in Prague while the Senate considers the nomination of Norman Eisen to be U.S. Ambassador to the Czech Republic. One of the issues we discussed was his belief in the importance of congressional travel. In addition to raising Members of Congress' understanding of world affairs, it provides embassy staff with opportunities to raise issues of importance with foreign leaders at higher levels than normally possible. Along these lines, I was asked to voice my support to Czech officials for the efforts of Westinghouse—a Pittsburgh-based company—to build a nuclear power plant in the Czech Republic.

The Westinghouse facility would provide 9,000 American jobs, create $18 billion in U.S. exports, and would allow the Czech Republic to reduce its reliance on Russia as an energy provider. Russia currently provides the Czech Republic with 70 percent of its natural gas, 60 percent of its petroleum, and 30 percent of its nuclear power.

The following morning I met with Ambassador Ordway and some of his deputies for a country team briefing. One of the issues we discussed was the newly-elected Czech Parliament's plan to balance the national budget by 2013 through cuts in expenditures and increased indirect taxes. Additionally, we discussed the Czech Republic's presence in Iraq and Afghanistan. Approximately 535 Czech soldiers are currently serving in Afghanistan, and it was the sense of the embassy staff that public sentiment regarding the mission could change following the recent deaths of 3 Czech servicemen.

Following the meeting at the Embassy, Ambassador Ordway and I proceeded to a meeting with Czech President Vaclav Klaus. I thanked the President for his country's contribution to the military efforts in Iraq and Afghanistan, and he expressed the belief that while the missions were not popular in the court of world opinion, something had to be done and the world could not afford to standby.

I raised the issue of the prospects of forming lasting democratic institutions in Iraq and Afghanistan. He expressed the view that he thought democracy would come to Iraq, but was unsure when. He expressed doubts as to whether it could ever take hold in Afghanistan.

I urged President Klaus to support Westinghouse's nuclear bid and he said that he has been impressed with Westinghouse products since his days as Prime Minister, but added that the decision would be made by others in the Czech government.

Knowing President Klaus to be a former economics professor, I raised the issue of China's unfair subsidization of its steel industry—something I have fought against and argued before the International Trade Commission on a number of occasions—which leads to an unlevel playing field for U.S. and Czech companies alike. President Klaus shared my frustration with such practices, but he disagreed when I suggested the implementation of countervailing duties. It was his sense that democratic reform in China would be the greatest driver for improvements in trade practices, although he could not suggest a timeline for such reform.

I inquired with President Klaus his views of Iran and what could be done there. While he did not have a direct answer, he shared a very interesting story about an encounter he had with Russian Prime Minister Putin and Russian President Medvedev. He explained that during a conference the three had attended, both Putin and Medvedev expressed great concern over the situation in Iran, because of Iran's efforts to develop a nuclear weapon.

We also discussed efforts to create a lasting Mideast peace, strategies for dealing with North Korea, and climate change. With regard to the last issue, knowing me to be concerned with current changes to the global climate, President Klaus provided me with a copy of his book ''Blue Planet in Green Shackles,'' in which he expresses his skepticism with regard to man's impact on the warming of our planet.

ISRAEL

We spent most of July 6 traveling to Israel from the Czech Republic. This was my 27th visit to Israel in my capacity as a Senator. The following day, I had a series of meetings with Palestinian Liberation Organization negotiator Dr. Saeb Erekat, Palestinian Authority Prime Minister Salam Fayyad, Israeli Opposition Leader Tzipi Livni, Israeli President Simon Peres, and finally had a dinner meeting with Israeli Deputy Foreign Minister Danny Ayalon.

My first meeting of the day was with Dr. Saeb Erekat in Ramallah, someone I have gotten to know very well over the past 15 years. We opened the meeting with a discussion about the prospects for peace. Dr. Erekat immediately said that peace was obtainable—very much in reach—and the next move lay in the hands of Israeli Prime Minister Benjamin Netanyahu. I mentioned that I would be meeting with Israeli President Peres later that day and Syrian President Assad the following day. Erekat told me to speak to Israel about using Turkey to resume the indirect talks between Israel and Syria. According to him, it was both his and President Abbas's position that it was in the Palestinians' interest for Syria and Israel to resume talks and that the current tension between Israel and Turkey benefitted no party.

That afternoon I remained in Ramallah to meet with Palestinian Authority Prime Minister Salam Fayyad. He said he is focusing on growing the economy in order to undercut peoples' reliance on Hamas for basic needs. Prime Minister Fayyad was optimistic that the Palestinian Authority can regain control of the government from Hamas in the upcoming elections.

I raised the issue of Israel's talks through Turkey with Syria. Prime Minister Fayyad was skeptical of the utility of this track, and indicated his belief that the best course forward is to formulate a joint public document outlining the key issues which need to be resolved to make peace. He also discussed his belief that concerted U.S. involvement could greatly improve the chances of success.

I asked the Prime Minister if there were other ways the U.S. could be helpful and he explained that much of the progress on moving the economy and infrastructure has come from USAID, including more than $2.9 billion since 1994 for programs in the areas of water, sanitation, infrastructure, education, health care, economic growth and democracy.

After meeting with Prime Minister Fayyad, we returned to Jerusalem where I met with Israeli Opposition Party Leader Tzipi Livni. We opened the discussions talking about Israel's indirect talks with Syria through Turkey. She indicated her belief that an agreement was ''feasible''.

I proceeded to ask her about Prime Minister Fayyad's assertion that there will be no peace between Israel and the Palestinians until the Palestinians are united. In her view talks between Israeli and Palestinians could proceed, and when an agreement is reached it could be presented to Hamas—where they would be given a choice work together or be seen as an obstructionist minority.

That evening I joined Deputy Minister of Foreign Affairs Daniel Ayalon for dinner. We became friends when he served as Israel's ambassador to the United States. I opened the discussion by expressing Dr. Erekat's position that if Prime Minister Netanyahu were serious about peace, a deal could be made. Ayalon responded by stating that peace was on the table in November of 2008 and was rejected by the Palestinians.

During my meeting with Dr. Erekat, he mentioned a situation where Minister of Foreign Affairs Avigdor Lieberman would not shake his hand, so I raised the issue with Deputy Foreign Minister Ayalon. He denied the account and referred to Lieberman's oft-quoted remark that he would give his own house for peace with the Palestinians.

Before concluding dinner, Ayalon asked me to return with two messages to the U.S. The first was to pass a request shorten the life sentence for Jonathan Pollard, a former civilian intelligence analyst who was convicted of spying for Israel. The second was to express appreciation for the funds stemming from the United States-Israel Energy Cooperation Act of 2007, which authorizes grants to encourage collaboration between the U.S. and Israel in the research, development, and commercialization of renewable energy and energy efficiency technologies. The $4 million appropriated to date by Congress for this program has been matched 100 percent by the Israeli Government. Funding has gone to support eight collaborative projects between Israelis and American universities and private companies, including a company based in Bala Cynwyd, Pennsylvania. With this funding Israel hopes to reduce its oil dependence by 50 percent.

SYRIA

The next morning we flew to Syria—my 19th trip to the country—via Jordan to meet with President Bashar al-Assad. I have gotten to know President Bashar al-Assad well over the past decade, just as I knew his father, Hafez al-Assad. I opened my meeting with President Assad by expressing regret that the U.S. Senate had not acted to confirm Robert Ford to be the Ambassador to Syria, in addition to ambassadors to other important countries and international bodies. President Assad replied that he was very pleased by President Obama's signal that he wanted an American ambassador in Damascus.

I continued the conversation by recounting a discussion I had recently with Syria's Ambassador to the United States, Imad Moustapha, in which we discussed the opportunity to restart talks between Israel and Syria. President Assad expressed great openness to resuming the talks with Turkey as the broker.

I pressed Assad on Syria's alleged sale of Scud missiles to Hezbollah and his support for Hamas and Hezbollah. He asked for proof on the missile issue and denied the charge. He said that once there was a Syria-Israeli peace agreement there would no longer be a reason for any concern about missiles. Hezbollah or Hamas.

In discussing Iran, President Assad suggested the U.S. work to improve its relationship with Iran by further pursuing diplomatic engagement.

As I have done in previous conversations with President Assad, I expressed my desire that he allow forensic teams into his country on the missing Israeli soldiers issue. I also raised again my request that the remains of Eli Cohen be returned to Israel—or, at a bare minimum, allow a kaddish to be said over his remains by his widow and a rabbi. He said those matters would have to await a Syria-Israeli peace treaty.

Finally, at the urging of the Charge, I asked that recent changes to Syrian visa regulations—which seem to target Americans—be reversed in light of the fact that the U.S. has reduced visa wait periods for Syrians and lifted the Travel Warning for Syria. President Assad said he would look into this situation.

CROATIA

On Friday, July 9, 2010 I flew to Dubrovnik, Croatia where I met with U.S. Ambassador Jim Foley. During our meeting Ambassador Foley underscored Croatia's strong support of the U.S. and cited its commitment of 300 soldiers to the mission in Afghanistan. The Ambassador expressed his support for Croatia's desire to enter the European Union so as to strengthen the economy and provide incentives for governmental reform. I inquired about the status of the Serbian fugitives responsible for the Srebrenica Massacre and the Ambassador assured me everything was being done to bring those men to justice. While we were in Croatia, there was a summit of regional leaders being held in the city.

The next morning I met with Croatian Foreign Minister Gordan Jandroković before the Croatian summit. I expressed my appreciation for Croatia's efforts in Afghanistan and my support for Croatia's desire to enter the E.U. He indicated in response that Croatia plans to expand its troop commitment in Afghanistan by five percent to 320. We also discussed efforts to improve relations between Kosovo and Serbia so as to improve regional security.

We returned to the United States on Sunday, July 11, following an overnight layover in France.

Mr. SPECTER. In the absence of any other Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask the time be yielded back so we can proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SMALL BUSINESS LENDING FUND ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus/Landrieu) amendment No. 4519, in the nature of a substitute.

Reid amendment No. 4520 (to amendment No. 4519), to change the enactment date.

Reid amendment No. 4521 (to amendment No. 4520), of a perfecting nature.

Reid amendment No. 4522 (to the language proposed to be stricken by amendment No. 4519), to change the enactment date.

Reid amendment No. 4523 (to amendment No. 4522), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4524 (the instructions on the motion to commit), to provide for a study.

Reid amendment No. 4525 (to the instructions (amendment No. 4524) of the motion to commit), of a perfecting nature.

Reid amendment No. 4526 (to amendment No. 4525), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent Senator LANDRIEU be recognized to speak for up to 1 hour at 12:30 p.m. today and that the Republican leader or his designee then be recognized following Senator LANDRIEU.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, the Senate once again has before it the small business jobs bill. We have created this bill to help move the economy toward recovery. We have crafted this bill to create jobs. We have crafted this bill to strengthen capital investment.

Over the course of the great recession, small business capital investment has fallen dramatically. Since 2005, the percentage of small businesses that made a capital outlay in the previous 6 months fell by nearly 30 percent. Capital investments are an integral part of getting the economy back on track. We need to make sure that businesses, and especially small businesses, have the opportunity to make these investments so they can improve and expand.

Our small business jobs bill includes two accelerated cost recovery provisions. These incentives would lower the cost of capital and they would help businesses to make capital investments. One accelerated cost recovery provision in this bill would increase the amount of capital investment that a business could expense under section 179 of the Tax Code. Section 179 is one of the most widely used tax benefits available to small businesses.

We all hear of this constantly from our small business constituents in our home States. This year business owners may purchase and write off up to $250,000 in equipment for use in their trade or business. This tax benefit phases out for expenditures between $250,000 and $800,000, but in 2011, under current law, the $250,000 threshold will decrease sharply to $25,000, and the $800,000 ceiling on the benefit will decrease to $200,000. The bill before us today would increase the thresholds to $500,000 and $2 million in 2010 and 2011.

Expensing is an important tool for small businesses because it is the most accelerated type of depreciation. With expensing, a business can deduct the complete cost of an asset such as equipment or software in the same year the business buys the asset. With expensing, businesses do not have to wait for years to recover these costs as they do through traditional forms of depreciation.

In this weak and uncertain economy, the ability to deduct the cost of assets in the same year provides an immediate benefit for businesses. These immediate benefits strengthen the investment practices of a business, and that strengthens the economy as a whole. An increase in the thresholds for section 179 expensing effectively decreases the cost of newly purchased equipment, and that makes it more economical for a business to invest. These investments can help a business grow with relatively simple acquisitions.

For example, a business could boost productivity by updating office technology. This provision will also increase cashflow for businesses, and businesses that invest in new equipment put money back into the larger economy with their purchases. Take, for example, Brown's Automotive in Billings, MT. Brown's Automotive specializes in transmission repairs. Those repairs require significant equipment investments, such as lifts and scanners. Business has been down lately as few people are able to afford expensive transmission repairs these days. When business is slow, purchases of heavy equipment can put a major strain on cashflow. But section 179 expensing and the 50 percent bonus depreciation extension in this bill make a huge difference for Brown's Automotive. Brown's can now write off a portion of the cost of new equipment, and that helps them maintain their cashflow and encourages them to make further capital investments.

Because of provisions like 179 expensing, Brown's has retained all 43 of its employees despite the recession.

This bill also allows taxpayers to expense up to $250,000 of certain real property within the newly expanded thresholds in 2010 and 2011. Currently, taxpayers can expense only tangible personal property. Tangible personal property includes things such as machines or equipment. Expanding section 179 expensing to include some real property greatly increases the value of this provision to small businesses. This provision means a business could expense the improvements to the property itself.

For example, a small business owner with a retail clothing store may expense improvements that were made inside the store, such as built-in cabinets to better stock clothing or lights to brighten the fitting rooms. Allowing a retail owner to expense these improvements immediately lowers the owner's costs, and ultimately this will help the retail store owner to run a better business. This expansion also applies to qualified restaurant property and qualified leasehold improvement property.

A second accelerated cost recovery provision in this bill is bonus depreciation. Bonus depreciation also helps Brown's Automotive and many other small businesses. This bill would extend bonus depreciation through the end of this year. This important provision would quickly spark investment, increase cashflow, and help to create jobs.

Bonus depreciation especially helps businesses that need to make large capital expenditures but that may not be able to take advantage of accelerated depreciation under section 179. Currently, businesses are allowed to recover the cost of capital expenditures over time. As a result of the great recession, Congress temporarily allowed businesses to recover the cost of certain capital expenditures more quickly by increasing the writeoff to 50 percent of the cost of property placed in service in 2008 and 2009.

This bill would extend the additional depreciation to property placed in service in 2010. This additional depreciation makes property more affordable. The business can use the savings it receives to reinvest in the business and to hire new employees. This provision benefits immediate investments that can strengthen the economy now. We do not have to wait to see the benefits of this important provision.

Bonus depreciation also helps the business that sells the equipment. It helps manufacturers and suppliers retain and hire employees as their businesses rebound. The more purchases that are made, the more other businesses are helped. This double benefit makes bonus depreciation a cost-effective way to strengthen business investment.

Section 179 expensing and bonus depreciation encourage investment and creates jobs. There is no doubt about it, and very significantly, I might add, with this bill, we can help put the American economy back on track.

This bill would provide continued support to our small businesses on the path to economic recovery. The bill increases access to much needed capital, encourages entrepreneurship, and promotes equity. The small business jobs bill includes incentives to strengthen capital investment.

I urge my colleagues to support the small business jobs bill. I might add that today we are working to reach an

agreement on consideration of amendments to this legislation. We hope we will have more to announce later as we reach that agreement. I very much hope that can be done very expeditiously so we get this bill passed and get the needed assistance to our small businesses.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHANISTAN

Mr. CASEY. Mr. President, I rise this morning to talk about the United States strategy in Afghanistan. However troubling the recent leak of classified documents, the topics discussed in those documents confirm some of the difficulty we face as a country today in Afghanistan.

Much of what was reported in the newspapers the last couple of days is, frankly, not news, but a review of what we already knew, that corruption continues to plague the Afghan Government, the performance of the Afghan National Army and police is uneven and at times problematic, and the Taliban have been emboldened in recent years.

As I said, this is all information we knew. It might have more details about it, some more reliable than others. But the release of these documents should, at the same time, help to sharpen our focus on all of those issues and more, and ask the tough questions, as is our responsibility in the Senate in a time of war.

This year, 2010, has already been the deadliest year on record in Afghanistan. We have new military leadership on the ground, General Petraeus, and assurances from the administration that civil-military relations are strong. Two weeks ago, Ambassador Holbrook appeared before the Foreign Relations Committee where he described the civilian component of our engagement in Afghanistan.

Our regular reports from the administration are instructive and do indeed show that we are making progress in some areas. But the overall picture is not encouraging. Casualties are up. Fifty-three servicemembers from Pennsylvania have lost their lives in Afghanistan. And, by way of comparison, in Iraq over the course of that battle, that war and the battles that were part of it, Pennsylvania has had 196 killed in action. So when we get above 50 Pennsylvanians killed in action, that is getting very high.

Of course, casualties mean both those who have been killed and those who have been wounded. So the 53 from Pennsylvania I mentioned are killed in action. We have many more who have been wounded. Our troops continue to be plagued by the threats posed by IEDs, improvised explosive devices, something I have been continually raising with the administration and others and will continue to do this until the threat to our servicemembers ends or is sharply reduced.

Unfortunately, we have a problem which is not just the IED itself but the ammonium nitrate, which is the most significant ingredient, which, as everyone knows, is a fertilizer which is used across the region and in other parts of the world as well. But that ammonium nitrate is both the main and most potent ingredient, and its inflow from Pakistan is still a huge problem. We are working to address this proliferation and the transport of this deadly material in the region. We are also working closely with the Government of Pakistan to address this threat.

But today I wish to review what I see as three main areas of our involvement in Afghanistan. The three we have talked about over and over here in the Senate are: security, governance, and development.

First, the most significant issue for many Americans is the basic security or military question, and that part of the strategy. On last Tuesday, the international community met in Kabul to assess the progress as it relates to Afghanistan itself and the stability in Afghanistan. This was the biggest international gathering in Kabul in 40 years, 70 dignitaries from around the world, including our own Secretary of State, Secretary Clinton, and U.N. Secretary General Ban Ki-moon. Kabul itself, the city, was under virtual lockdown for the gathering, which passed without any major attacks, thank goodness. That is a testimony to the Afghan security forces.

The conference attendees endorsed President Karzai's plan for Afghan security forces to take over the responsibility for safeguarding the country by 2014, setting a potential timeline for foreign troops' departure.

President Karzai also said his government ''continued earnestly and with the full dedication, the pursuit of the peace process,'' with the Taliban, which has been endorsed by the international community. The United States has laid down basic requirements or conditions for any group seeking to negotiate, seeking some kind of reconciliation. There are three, and we need all three.

First, any group that wants to engage in this process has to end its ties to al-Qaida; second, they have to end violence itself; and, third, accept the Afghanistan Constitution.

Secretary Clinton met with a group of women in Kabul and reiterated her commitment to protecting women during this difficult transition period in Afghanistan. This issue is critical and has a direct impact on U.S. national security.

Women are the backbone of Afghan society, and they play a determinative role in whether their sons resort to extremism. It is that simple. With American fighting men and women giving, as Lincoln said, their ''last full measure of devotion to their country,'' the product of our troops' sacrifice cannot be an Afghanistan that does not respect the rights of women. The Taliban cannot be allowed to impose their Draconian version of justice as it relates to women or society in general.

Senator BOXER and I cochaired a Foreign Relations Subcommittee hearing on women in Afghanistan a number of months ago and will continue to strongly advocate for the rights of women in Afghanistan. We commend and applaud the work of Secretary Clinton and her Department on this issue. It is not only the right thing to do, it is literally in our national security interest to do this work.

The most unfortunate indicator in the security environment, however, is the increase in American casualties, killed in action, and wounded. June was the deadliest month on record. The death toll was 103. More than half of them were American servicemembers, and from Pennsylvania four servicemembers were among those 103 killed in action.

A new Afghan study also revealed that civilian casualties are on the rise. More than 1,000 Afghan civilians were killed in the first 6 months of 2010, a slight increase compared to the same period in 2009. However, the number of people killed in NATO air strikes in the same period has decreased by 50 percent because of changes in the rules of engagement. So it is good news that that number is going down.

Most of the civilian deaths documented by the report were caused by insurgents, with the widespread use of roadside bombs, IEDs, as I mentioned before, particularly deadly. They alone have killed 300 civilians, those kinds of explosions.

In addition to security, which is essential, of course, in any strategy to make sure there is stability in Afghanistan, the second element is once you have security or are making progress on security, you hear this talk over and over again about clear, hold, and build. You clear out the insurgents, clear out the enemy, and then you have got to hold that region or that geography, and then build on it. The building, of course, cannot take place unless there is good governance. And to say we have a lot of questions in this area is a dramatic understatement.

Corruption in the Afghan Government was a major issue at this week's conference. President Karzai identified corruption as a major concern in his inaugural address, going back a number of months. We support steps he has taken to begin addressing this problem. These include issuing a Presidential decree in March of 2010 that provided that the USAID-supported High Office of Oversight have additional investigative powers.

It also outlined a process we are supporting for establishing a monitoring

and evaluation committee on corruption comprised of Afghan and international experts. Last week, Afghanistan's Cabinet approved a bill which will allow government ministers and senior officials accused of corruption to be put on trial. For Americans, that doesn't seem like a big development, but that alone is significant progress, to put corrupt officials on trial and have a judgment rendered pursuant thereto. Once passed by Parliament or Presidential decree, this bill will allow the creation of a special tribunal to try officials accused of graft or corruption. Under current Afghan law, ministers are immune from prosecution in ordinary courts. It is hard to understand that, but that is the situation as it stands now.

American officials estimate that $14 billion a year in assistance is put through the government, but most of the current assistance package now goes through Western organizations. As the Obama administration makes an effort to increase direct assistance to the Afghan Government, safeguards must be put in place to ensure Afghans bolster their financial management systems and combat corruption. As emphasized in the administration's January Afghan strategy document, there has been a major U.S. and Afghan push to build up local governance. This approach represents an attempt to build some of the tribal and other local structures destroyed in the course of constant warfare over several decades. We have a long way to go on governance, but it bears scrutiny and attention and a lot of tough questions asked by Members of the House and Senate and getting answers to those tough questions from the administration and from President Karzai and his government.

Third is the issue of development. In his testimony last week, Ambassador Holbrooke highlighted USAID's agriculture voucher program. Launched in September of 2009, this program has distributed wheat seed to more than 366,00 farmers—critically important to give farmers the resources and help to develop their crops. This strategy also resulted in the training of 80,000 Afghan farmers in best practices and employed over 70,000 Afghans on short-term rural infrastructure projects. In many places throughout Afghanistan's south, these programs are being administered increasingly under the auspices of the Afghan Ministry of Agriculture, whose extension agents receive training from forward-deployed USDA and USAID agricultural advisers. Many Americans might think the only people on the ground are soldiers and military personnel. We have a lot of dedicated Americans who work for the Department of Agriculture, for USAID, who work for a number of Federal Government agencies helping the Afghan people to develop their economy and to govern their country better.

Ambassador Holbrooke also discussed our new counternarcotics strategy, which combines law enforcement, intelligence, interdiction, demand reduction, regional coordination, and alternative livelihood programs. He reports that:

> We have seen significant increases in: the number of drug labs destroyed; the number of drug traffickers arrested; the amounts of opium, poppy, heroin, and morphine [based-drugs] seized; the number of joint operations with Afghan forces.

A joint ISAF-Embassy Kabul effort has been restoring cellular telephone service in areas where the Taliban has destroyed or deactivated cell towers. Over 20 cell towers have been reactivated in Helmand Province and Kandahar, with significant benefits for local communities. One of the civilians embedded with the Marines in Helmand Province reported that soon after a local cell tower resumed operation, ''three cell phone shops opened up in the district bizarre and SIM cards were available in the whole of the district—without involvement from the Marines or U.S. civilians.''

That is a bit of good news in the midst of a lot of difficult challenges.

All of us commend the Obama administration's work to bolster civilian efforts in Afghanistan. On a mission so important, where troops and families are sacrificing so much every day, building civilian capacity can never move fast enough. However, we have tripled the amount of civilian advisers since the Obama administration assumed office in 2009. The administration has refocused development priorities on agriculture and changed the rules of engagement to ensure fewer Afghan civilians are negatively affected and turned into potential enemies. We are making progress, but much more remains to be done on the three critical measurements: security, governance, and development.

I will continue to ask tough questions and demand answers on all three parts of our strategy. The American people have a right to these answers.

The threat posed by IEDs in Afghanistan is the No. 1 killer. We know this from many reports. The work done by the Joint Improvised Explosive Devices Defeat Organization, known as JIEDDO, is working actively to address the threat on the ground. The State Department, led by Secretary Clinton, is engaged with governments across the region to develop a comprehensive approach on countering IEDs and having a strategy for stopping the flow of ammonium nitrate into Afghanistan from Pakistan and other places in the region, which is the central ingredient in the IEDs. I am glad this effort is taking place by our government but much more work needs to be done. We need to do everything we can to stop the attacks that result from the use of ammonium nitrate and other ingredients in the IEDs. Nothing is more important as part of our strategy.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Virginia is recognized.

REFORM OF THE CRIMINAL JUSTICE SYSTEM

Mr. WEBB. Mr. President, I rise to point out to Members of this body that yesterday in the House of Representatives, the National Criminal Justice Commission Act of 2010 was passed in a noncontroversial manner by a voice vote. This legislation is identical to legislation my staff and I have worked on for more than 3 years, which has cleared the Judiciary Committee, which now has 39 cosponsors, including the Senator from Pennsylvania and the Presiding Officer. I urge leadership on both sides of the aisle to bring this legislation to the floor. Let's get the task of reforming our criminal justice system into motion. It has been more than 40 years since we have had a strong look at all the different components of our criminal justice system and how broken it has become. This legislation would provide the right vehicle to do so.

I started working on this issue as soon as I came to the Senate. We worked along with the Joint Economic Committee and many nonprofit groups and 501(c) groups to hold extensive hearings on the issues of mass incarceration, drug policy, how these different components of criminal justice interrelate, and why we need to take a larger look at the process. We designed this legislation with input from across the philosophical spectrum in order to provide strong advice to the Congress about how to fix all the components of the criminal justice system, from how people are apprehended, what to do with them after they are apprehended, when do we put people in prison, how long, what happens to them when they are in prison, what does prison administration look like, what do reentry programs look like, and how do we deal with issues such as transnational gains. While it is very difficult to deal with these issues one at a time, we have a vehicle here that has been scrubbed through the entire philosophical spectrum with great support. I will show some of the areas of support in a minute.

The starting point is why, why do we need to move on this now.

I wrote an article for Parade magazine last March when I decided to move our legislation forward. We got tremendous support across the country once we started talking about it. The two components we all ought to be concerned about are, first, incarceration in the United States has skyrocketed, particularly since about 1980. In the United States today, we have far more people in jail per capita than any other country in the Western world and actually in other parts of the world as well. We have 5 percent of the world's population and 25 percent of the world's known prison population. At the same time, we have another 5 million people in different parts of the criminal justice process who are not incarcerated. More than 7 million people are involved in the criminal justice process today.

At the same time, if we ask people if they feel any safer, more than 70 percent will tell us they feel less safe in their communities than they did 1 year ago. This is a trend that has actually increased over the years since about 2001. We are putting more people in jail, we have more people involved in the criminal justice system, and people feel less safe. Clearly, this is a leadership issue. We need to get our arms around it. We have a responsibility as leaders of the Nation to put the right process into motion so we can make better sense out of the criminal justice system.

Another statistic, before I talk about the process we went through, when we look at the increase in incarceration, a huge part of it has been through our inability to get our arms around enforcement of drug policies. If we go from 1980 to 2007 and look at Federal, State, and local prisons or jails, we will see that our incarceration of drug offenders has skyrocketed by 1,200 percent. In 1980, we had 41,000 people in jail on drug offenses. By 2007, it was 500,000. A significant percentage of these people are incarcerated for nonviolent offenses, and a very high percentage have been minorities.

When we started talking about this issue, we heard a lot of unease, particularly from law enforcement's side. We brought them in one at a time. I am not on the Judiciary Committee. My staff brought them right into the office. We sat down with more than 100 different organizations from across the philosophical spectrum to listen, to get their input on what this Commission ought to do, and to make sure we are reaching out to all aspects of the issue of criminal justice. We have support now from across the philosophical spectrum: Fraternal Order of Police, National Association of Police Organizations, the International Association of Chiefs of Police, nearly 20,000 members who called their own press conference a couple months ago to endorse this legislation. Among their leadership, they were saying this was the most important issue they would be working on in their careers.

At the same time, we have received endorsements from people who were more concerned about the individual rights area of criminal justice: the NAACP, the American Civil Liberties Union, Human Rights Watch, the National Association of Social Workers. This is a buy-in from all the elements in our country involved in this issue; that we need to find the type of solution that is going to make our system more fair, more efficient, and, in the end, is going to give us the potential, in terms of the reentry process, to reduce recidivism and reduce crime in communities.

The last point I would make—and I hope my colleagues will think about this—with the passage of this legislation from the House last night, we are ready. There is not any major piece of controversy over a piece of legislation that we have sat down and listened to from the Republican side. We have a seven and seven buy-in on the membership of the commission in terms of appointments from different party leaders.

This is a copy of the cover of this week's Economist magazine I show you in the Chamber. The Economist magazine, in my view, even though it is a British magazine, is probably the finest news magazine in the world. I have read it for more than 30 years. The cover is ''Why America locks up too many people.'' They have an indepth article in here asking the question, What is wrong with the American criminal justice system, and what needs to be done to fix it?

So I would ask the leadership of both our parties, and particularly those on the other side, let's step forward and create this commission. It is a 1½-year sunsetted commission. It is not something that is going to keep going. We are going to put experts on the commission to come back to us and talk to us about how we can make this system fair, take care of the problems of crime, the worries people have, and at the same time be a lot more sensible in terms of whom we are incarcerating and how we are assisting them in their reentry into our society.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is considering the small business bill.

Mr. UDALL of Colorado. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, I will speak to the bill we are considering.

I rise today because I know we need to throw a lifeline to small businesses by increasing their access to credit. They have bills to pay, payroll checks to issue, and accounts payable mounting as they try to drive economic development. I supported the $30 billion lending increase this past week—I think the Presiding Officer did as well—because we know we have to do all we can to get small business cranked up in our country. I supported it with the understanding that if we were going to finance $30 billion from the banking sector, the very least we could do as well would be to increase lending without costing taxpayers a dime.

I wish to speak specifically to a piece of legislation I introduced, and I introduced it in amendment format as well, with bipartisan support. This amendment would get government out of the way so that credit unions could increase their small business loan portfolios. Right now, credit unions are making small business loans, but there is an arbitrary cap on the size and how many loans they can actually issue. In every single State—in Illinois, Colorado, California, and North Carolina—there are credit unions that have money and are ready to responsibly lend more money, but the Federal Government is standing in the way. I, for one, am not ready to say to all businesses that they have to close their doors because of a Federal cap on loans. In an economy such as the one we now face, we have to change that situation. We all know that when small businesses expand and grow, that will be critical to pulling us out of this recession. In the last 15 years, small businesses have generated two-thirds of all the new jobs created in the United States, and they currently employ more than half of all Americans in the workforce.

As I travel across Colorado—as I know the Senator from Illinois travels across Illinois—and I visit with small businesspeople, they continually ask me: Where is the lending? I thought the banks were supposed to start lending again.

Despite remaining profitable, small businesses have been unable to secure the loans they need to make investments in inventory, expand, and ultimately hire new workers. That is, again, why I introduced this bipartisan amendment to allow credit unions to ramp up small business lending without costing taxpayers a dime. I wish to say that again. We are not costing taxpayers a dime to put these changes into current law.

Let me speak to current law. Under current statute, credit unions are required to limit their small business lending to 12.25 percent of their credit union's total assets. But credit unions have run up against that cap, and the only thing keeping them from jumpstarting our economy is an outmoded, antigrowth law which I have referenced.

After we introduced our bill last year, we heard from inside-the-beltway banking representatives who said increasing credit union loans to small businesses wasn't going to be safe or sound. Now, I suspect they were more concerned about others making loans than they were about safety and soundness. We all know in this Chamber that banks and credit unions regularly snipe at each other. It is almost like the Hatfields and the McCoys. But in the end, this isn't a bank or credit union issue; this is a small business issue.

So in coming to this updated, bipartisan compromise, I have spoken to the Senate Banking Committee, the Treasury Department, and even the credit

unions' own regulator, the National Credit Union Administration. They have all agreed to support our compromise that will safely and soundly increase small business lending by the credit union sector without costing Americans a dime. Best of all, most important of all, this legislation could lead to large-scale job creation in my home State of Colorado and around our country.

The amendment takes the most well capitalized, the most experienced, and best run credit unions that have run up against this lending cap I have mentioned and allows them to meet the rising demand for small business loans. When they meet those conditions, their regulator will then allow that small business lending cap to slowly increase from the current 12.25 percent to a maximum of 27.5 percent of total assets. We know these credit unions are the most prudent financial institutions around, and nobody can argue that allowing them to throw a lifeline to small business is irresponsible. So this amendment is a sound, surefire way to grow our economy by increasing credit unions' ability to lend to small businesses. Again, I wish to remind my colleagues that this is at no cost to the taxpayers—no cost to our taxpayers.

The National Credit Union Association estimates that these sensible reforms would increase credit union lending to small businesses by $10 billion within the first year of enactment, with an increase of nearly $200 million in my home State of Colorado. This is just an example. This new access to credit is estimated to create over 100,000 new jobs nationwide. It sounds to me like a probusiness, projobs policy that we all can agree we need. The National Small Business Association and even the National Association of Realtors have gotten behind our efforts, and they are urging us to pass this important provision.

Everybody here—I look around the Chamber, and I see my friend from Oklahoma—knows what shape our economy is in today. Small businesses continue to struggle to access credit as large banks have significantly cut back on Main Street lending. We have all met business owners who have experienced this credit squeeze. If we are going to finance $30 billion to increase lending, which I do support, we should at least take this small step and help small businesses at no cost to taxpayers.

So as I close, I wish to urge my colleagues to avoid the infighting that would have us believe this is about banks or credit unions because it is truly about our small business sector. We can't turn away entrepreneurs in this economic climate. We want to create jobs and begin new businesses, especially because of our politics here in Washington. I know there is not a single Senator who wants to look a small business owner in the eye who hasn't been able to get a loan because of an arbitrary government cap on small business lending. So let's unlock credit markets in Colorado and throughout the country. This amendment could be an important part of that effort. I wish to work with colleagues on both sides of the aisle to quickly pass this amendment and allow our Nation's small businesses to again set our country on a path toward job growth and prosperity in the future.

Mr. President, I thank my colleagues for their attention, and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that after addressing the Senate for 5 minutes, Senator INHOFE be next in line.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I thank the Senator from Oklahoma, and I thank Senator UDALL from Colorado for his words.

Each day in towns and cities across my State of Ohio, small business owners and manufacturers will walk into a bank and apply for a loan to expand their business. They have workers, they have the capacity to grow, and they have orders for sales. They want to hire more workers. Too often, though, a creditworthy bakery shop owner, an auto supply manufacturer, or a clean energy entrepreneur will be turned away, snuffing out their dream and our economic recovery.

The strength of our economy depends on the strength of our small businesses. We know that about half of all employees in my State of Ohio and in most places across the country work in small businesses. We know that about two-thirds of jobs created in this country come from small business. Whether it is to create these jobs or supply services to other businesses or export products to new markets, small businesses, of course, rely on access to credit. Yet bank lending dropped by $578 billion last year—the largest decline since the 1940s. That means 60 percent of small businesses in America reported they didn't have the credit they needed to meet their business needs.

It is unacceptable that the same banks taxpayers helped save when the economy faltered are refusing to lend to responsible small businesses with good credit histories and good business plans. Many of these banks are building massive reservoirs of cash rather than making simple loans or extending lines of credit to small businesses. As a result, small businesses are denied the capital they desperately need to expand operations and hire more workers. That need is especially acute for Ohio manufacturers that have higher operating expenses, large upfront costs, and complex machinery to maintain. The issue of easing access to credit for manufacturers has been simmering for more than a year.

For the past year, I have chaired several hearings in the Banking Subcommittee on Economic Policy on how to restore credit to Main Street. We examined how to fix the problems to small business borrowing and lending programs, having heard directly from small manufacturers and other small businesses and small and big banks.

Chairwoman LANDRIEU of the Small Business Committee has assembled a powerful small business bill that strengthens our economic recovery by partnering business and government. Senator SNOWE has made significant contributions to this bill. There are few stronger advocates for small business and small manufacturers than she is.

This bill has several provisions that will help small business owners access new credit, refinance existing debt, and open cash flow as the economy continues to recover.

Last week, we took a big step toward helping small businesses in this country by ending debate on the amendment to add a $30 billion lending fund to the bill. I applaud Senator VOINOVICH, the senior Senator in my State, and Senator LEMIEUX for their work and support.

A key feature in the bill is the State Small Business Credit Initiative Program, a program I have worked on with Senators LEVIN and WARNER and STABENOW, along with the Secretary of the Treasury. This program would help small business owners and manufacturers whose collateral—it might be commercial real estate or it might be factory equipment—depreciated during the recession.

It is the same collateral, but it is not worth as much because of what has happened to the economy.

Too many small business owners have been forced to pay higher interest rates on their loans, through no fault of their own, because their underlying collateral lost value due to the weakened real estate market and overall economy.

Almost daily, Governor Ted Strickland and I hear from small business owners who would benefit from the program, along with other State-based small business lending initiatives.

The bill also extends the Recovery Act's Small Business Administration-backed loans, which have already helped create more than 650,000 jobs nationwide.

Because of these loans, small businesses can now create jobs and generate tax revenue for communities across Ohio, at no cost to taxpayers.

By extending these loans, startup small businesses could buy new equipment, or existing small businesses can make long-term investments to expand operations.

My office has held more than a dozen SBA workshops across Ohio—in New Philadelphia, Chillicothe, Toledo, Akron, Youngstown, Cleveland, and Columbus—to connect more than a thousand small businesses with SBA resources. Clearly, there is a demand for these types of loans, which is one of the reasons the bill is so important.

Let's not forget that 2 years ago, our economy was on the brink of another Great Depression. When President Obama took office, we were losing 700,000 jobs a month. Today, we are growing the economy—not fast enough, and there is not enough job creation to hire everybody back who lost their jobs. We know that. And there is not enough job creation to hire high school and college graduates and young men and women returning from service in the military. We are growing, but we are not growing the economy at the speed we need. We need to continue the growth.

From the Recovery Act, to the health care bill, to financial reform, we are helping small business owners achieve the American dream of entrepreneurship, while rebuilding the economy along the way.

Through the Small Business Jobs Act, more small business owners can walk into a bank and receive the loans they need to expand operations, hire new workers, and get our economy back on track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

ENERGY

Mr. INHOFE. Mr. President, first, let me state that I have a great deal of respect for my friend from Ohio. I cannot agree, however, with the things this administration has done to pull us out of the recession. A lot of people believe the Federal Government can do that. I look at the institutions, and I say to the Chair, I have people who come into my office and it doesn't matter what industry they are in, they are all scared to death. It is a mentality that the Federal Government can take these things over and somehow make them better.

This administration is attacking every institution that made this country great right now. I don't care if you are in banking, insurance, health care, or the oil businesses—all of them are under attack. There is a myth out there that if the Federal Government takes it over, it will be run better than it would when run by the private sector. That is a prelude for the thoughts I want to share concerning what happened last night after 10 o'clock.

The majority leader, Senator REID, came out with a type of energy bill, I suppose you could say. He has been talking about an energy bill for quite some time. What I have seen in the bill that is called an energy bill—I can't speak too specifically about it, because it didn't come out until late last night. But we know this: First, they start off by taking off any liability cap on drilling, whether it is in the gulf or elsewhere. That is my understanding.

The problem we have—and some of the people in this Chamber might remember that I had occasion to come to the floor and object to the Menendez request about four different times in the last month, because what he was attempting to do is what this bill is suggesting—take all liability caps off. If you do that, something happens that is bad. I hope that is not the intent of the authors of the bill that came out last night. But what you do by taking the cap off is you limit who is going to be able—once the moratorium is lifted—to drill offshore to the giants.

We have five big oil companies—the big of the bigs—and everybody is talking about BP, the one responsible for the most devastating spill in our history. If you take the cap off, that allows the BPs and the nationally owned oil companies to drill. In other words, we have independents all over America that have the capability and are providing jobs in the gulf, to all the Gulf States. If you come along and, all of a sudden, say you cannot do it now because you cannot comply with this, there is a serious problem.

We have a solution to that, where oil companies would be putting into a fund—some of you might remember, 20 years ago, the Exxon Valdez oilspill. I remember going up there 20 years ago. That was a devastating thing. We are still feeling the damage that came from that spill. When I got there, something interesting was happening. The far-left environmentalists, who wanted to shut down all kinds of drilling all over America and elsewhere, were up there celebrating. I said: What are you celebrating? They said: We are going to parlay this spill—20 years ago—into stopping drilling on the North Slope. I said: Why would we do that?

That was a transportation accident. If you remember, that was a ship that came in carrying oil from foreign countries. They had the accident, and we had the devastating spill. But if you stop us from developing our own domestic resources, we are going to have to transport more oil from other countries. The incident of a potential oilspill would be much greater if we are transporting that much. They said: We are going to do it anyway.

I saw the same thing when the oilspill took place a few months ago in the gulf. All the people down there were almost celebrating, saying: We are going to parlay this into stopping all oil production offshore, and maybe even beyond that. That is essentially what the far left wants to do.

Here we have this bill that came out last night, which takes the caps off so that the only ones left—I call this the big oil bill. If we were to pass what came out of the majority leader's office last night, it would only allow giant oil companies, and maybe nationalized ones, to do the drilling. This is a huge thing.

The statement I am making—by the way, I have to quote someone I don't often agree with, and that is Carol Browner, the head of the EPA during the Clinton administration, and now the environmental czar in this administration. She said:

> So it will mean [talking about this subject] that you only have large companies in this sector, but maybe this is a sector where you really need large companies who can bring to bear the expertise and who have the wherewithal to cover the expense if something goes wrong.

She is saying that only big oil and China should be able to produce in the gulf. The problem with this is, everybody understands—certainly those Senators, Democrats and Republicans, from Texas, Louisiana, Mississippi, Alabama, and Florida all understand what the problem is here in terms of jobs. If you stop the independents from producing out in the gulf, it not only makes us more dependent upon foreign countries, or our ability to run this machine called America, but it does away with jobs.

The IHS Global Insight came out with a study that said if you do this, the gulf region would lose over 300,000 jobs by 2020. That is the IHS Global Insight. People don't argue with their credibility.

This is probably one of the biggest job loss bills we could have. I don't think it will pass, but if it did, that would be the problem.

I am going to address one more thing in this bill, and that is the technique of hydraulic fracturing. Hydraulic fracturing is a system whereby they go down—here is the aquifer here, 400 or 500 feet below the surface, and about 2 miles down—they drill down through that and use the hydraulic fracturing in order to get the close formation of oil and gas so they can produce that. Without that, they say—and I think nobody disagrees with this—we are not going to be able to produce natural gas. Everybody is talking about natural gas and how we are going to need more and more of it, how we would develop our potential and the shale potential particularly, and we can do away with having to be dependent upon countries such as Venezuela and countries in the Middle East for our ability to run the machine called America. So we have this methodology called hydraulic fracturing. The first hydraulic fracturing was done in 1949 in my State of Oklahoma. That is 60 years ago. There has never been one incident of contamination of water since that happened.

I am going to show you this. This is not me saying this; this is the EPA Administrator, Carol Browner:

> There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or endangerment of underground sources of drinking water.

Ever. Again, that is Carol Browner. This gives you an idea of where all this shale is. If you look at this—and I remember talking about hydraulic fracturing at some length some time ago, and Senator DORGAN, from North Dakota, came in and said he agreed with everything that INHOFE said. Obviously, this is Bakken shale up here. This chart shows the extremely large potential all over the country. Last July, I addressed the Senate for 30 minutes on this invaluable technique to access natural gas and oil reserves throughout the country.

While the country is at nearly 10-percent unemployment, access to these reserves means good news for jobs. I provided some examples of the thousands of jobs and billions of dollars in royalties, State tax revenues, and economic activity shale plays, such as the Barnett shale in Texas, Woodford shale in Oklahoma and Arkansas, and Haynesville shale in Louisiana and, as you can see, all over America on this map.

People are talking about big oil or oil in some negative context. There are hundreds of thousands of royalty owners around the country who would be shut down if we try to close down this methodology called hydraulic fracturing. This 60-year-old technique has been responsible for 7 billion barrels of oil and 600 trillion cubic feet of natural gas. The National Petroleum Council reports that 60 to 80 percent of all wells in the next 10 years will require hydraulic fracturing to remain productive and profitable. In other words, it is almost all of them that will require hydraulic fracturing to be competitive.

In Oklahoma, we should know. The first hydraulic fracturing was near Duncan, OK, in 1949. Very simply, it is the temporary injection of mostly water with sand, nitrogen, carbon dioxide, and other additives to fracture and prop open a ground formation to improve the flow of oil and natural gas through rock pores and increase oil and gas production. Ninety-five percent of the fluid is water, and 99 percent is water and sand.

New reports over the last 2, 3 years reveal some of the highest totals ever of natural gas in the United States. These reports demonstrate that at 2 quadrillion cubic feet of current demand, we have enough natural gas for us to keep America going for the next 100 years. That is the significance of this. If you do this and do away with that process—hydraulic fracturing—that will shut it down. So we are talking about now we have the potential to supply enough natural gas to run this country for the next hundred years. That is how significant this is.

Due to new natural gas shale plays all over the country, new studies demonstrate recoverable reserves of natural gas to meet the current demand for at least the next hundred years.

By the way, a report that came out shows that the United States is No. 1 in terms of recoverable reserves. We are talking about gas, natural gas, oil, and coal.

Some Democrats may argue that this section 4301 is only a disclosure provision of the chemicals used in the hydraulic fracturing process. That is not true. State regulators have safely and effectively regulated hydraulic fracturing for the past 60 years, as was stated by Carol Browner. State rules, such as in my State of Oklahoma, require disclosure of chemicals. What this provision is about is a new EPA Federal control. Somehow this administration thinks that if the Federal Government isn't running something—this is an obsession, where the Federal Government has to run everything. When I was mayor of Tulsa, we had a guy, a police commissioner, and he had a saying that ''if it ain't broke, don't fix it.'' This hasn't been broken once in 60 years. At a press conference, somebody talked about, well, didn't this happen in Nevada once? Well, I have no record—neither does Carol Browner—that there has been contamination as a result of hydraulic fracturing.

Proponents of this language argue that it is needed because fracking contaminates groundwater. As the ranking member of the Environment and Publics Works Committee, I have asked the USGS and the EPA's Assistant Administrators for both the Enforcement Office and the Water Office in testimony in front of the Environment and Public Works Committee whether they are aware of any documented case of water contamination due to hydraulic fracturing. They could not name one. That is because there isn't any.

These officials are not alone in this opinion. President Obama's energy czar agrees with me. In 1995, as EPA Administrator, Carol Browner wrote in response to litigation that Federal regulation is not necessary for hydraulic fracturing. She correctly made the point that the practice was closely regulated by the States and that ''EPA is not legally required to regulate hydraulic fracturing.'' Most importantly, she further wrote that there was ''no evidence that hydraulic fracturing resulted in any drinking water contamination'' in the litigation involved. We are talking about something that is not broken.

It clearly is necessary for us to get all of this out to run this machine called America. As we can see, this is not a partisan Republican issue; Democrats alike understand the importance of hydraulic fracturing.

When I spoke on the floor last July, as I mentioned, Senator DORGAN from North Dakota followed my comments saying that he agreed with my assessment that not only is fracking needed to access new reserves, such as the ones in the Bakken shale in North Dakota, but that he is not aware of any groundwater contamination from the practice. I appreciate the fact that he is outspoken in this area.

It is also extremely important to point out that Congress has already tasked EPA in law to study the effects of any hydraulic fracturing on water quality and public health. The EPA has already begun using $4.3 million for this effort, which is being led by Dr. Robert Puls, who works in EPA's Groundwater Research Laboratory based in Ada, OK. I encourage this study. We know there has not been any problem. I want to make sure we can put the final nail in this coffin, that people somehow think hydraulic fracturing contaminates water. This is a way to do an independent study. Let the government study it.

This bill was drafted last night at 10 o'clock in spite of the fact that we do not have any results back from that study. Even if one wanted to believe so badly and did believe this is a problem, let's at least wait for the study before composing new legislation.

Natural gas development brings billions in private investment and millions of jobs to America. This country cannot afford to limit the production of its domestic energy resources due to unfounded rumors of environmental damage and the usual hysterical claims from extremist environmental organizations looking for the next crusade because cap and trade is dead.

Let me repeat that. It was 13 months ago that I made a statement from this podium that for the next 12 months, people are going to say: We are going to pass some cap-and-trade legislation.

I said: We are not going to because it is dead. How many people, particularly the newly elected Senators, want to go back to their States and say: Aren't you proud of me? I voted for the largest tax increase in the history of America. That would be cap and trade.

Cap and trade is dead. Yesterday, the White House made some kind of statement that if we can get something thrown into conference and then have a lameduck session after all these faces have changed, we are going to try it again. It is not going to work. It is dead.

Let's look at what came out last night and study it. We have not had time to do that. We have not seen the exact language yet. It was not drafted until 10 o'clock last night. When they come to the point where they say they are going to do something to change hydraulic fracturing, that would be critical. That is one thing that would kill the development and production of natural gas to run this machine called America.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTHY, HUNGER-FREE KIDS ACT

Mrs. LINCOLN. Mr. President, I come to the floor today to speak again, as I did yesterday, on the committee-passed children's nutrition reauthorization legislation. Before I do, I ask unanimous consent that my colleague, Senator CHAMBLISS, be able to speak for 5 minutes following my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I come to the floor today again to speak about our committee-passed bill, the child nutrition reauthorization, and certainly the critical need for us to pass this legislation before child nutrition programs expire on September 30. Most

people know we do not move at breakneck speeds in Washington, and we have very limited time between now and September 30. In that time, our children will be going back to school. They will be going to their respective schools across this country, and we will have missed an opportunity to improve their lives in that school and in that community, to improve their health and well-being through greater access to free and reduced lunches and—not summer feeding programs but our breakfast programs, as well as the nutritional value of those meals.

I hope all of my colleagues will join me in helping us move our child nutrition bill forward. The bipartisan Healthy, Hunger-Free Kids Act will make a tremendous step toward addressing the childhood hunger and obesity crisis in our country and put us on a path to significantly improving the health of the next generation of Americans.

Congress has the opportunity to make a historic investment in our most precious gift and the future of this country—all of our children, not just my children, not just the other Members' children, but children all across this Nation. Other mothers and fathers, parents all across this country, and grandparents who are raising their children, who love and care for their children just as much as I love and care for my children, will have an opportunity, when we pass this bill, to realize a greater opportunity for their children.

Today, I am here to talk about what it will mean if we miss this opportunity, what it will mean for our children, our hard-working families across this Nation, and schools across the country if we fail to pass this bill and pass it before we leave.

The obesity crisis America faces comes at a tremendous cost to our health care system. Many of us do not think of it that way, but it does. It costs us roughly $147 billion per year. We should not miss this opportunity to proactively address the obesity crisis and begin to relieve our health care system of those financial burdens that follow obesity-related disease.

This bill includes the first congressionally mandated, noninflationary increase in the reimbursement rate for school meals prepared and served across this country since 1973. I do not want to talk too much because in 1973, I believe I was in junior high, perhaps. We have not increased the reimbursement rate for meals in our schools since 1973. We know what 1973 dollars purchased and we know what today's dollars purchase. We are strapping our school districts with trying to do a better job at providing healthier meals since we now know the difference it makes in our children's lives, both in their ability to learn and in their ability to grow and be healthy.

This reimbursement rate is performance based in our bill. That means schools only get it if they provide healthy meals that meet program guidelines. This provision will invest roughly $3.2 billion in additional money over the next 10 years. That is over $300 million per year in additional revenue for our schools. That is meaningful to these schools that are working diligently to try to provide the healthiest meals possible for all of our children.

I toured a lot of our schools during some of the breaks we have had this year and listened to some of those food service folks who work hard day-in and day-out trying to come together and figure out how they can meet guidelines and provide the healthiest foods possible to our students and to our children and to do so on those 1973 dollars. One of the things I found, which is amazing, is that many of them are still using 40-, 50-year-old equipment, which means they are having an even harder time not only because they do not have enough dollars to purchase the kinds of foods they feel would be healthier, but they do not even have the equipment to provide the preparation of those foods. Steaming vegetables one pot at a time for 300 students is impractical.

We look at the opportunities that exist for us to do something. However, if we fail to pass this bill, schools will miss out on over $300 million each year, and the next generation will still continue to pay the price for the health risks caused by obesity.

We can see on this chart what schools in each of our States stand to lose if we fail to pass this bill. I have looked pretty heavily at the State of Arkansas, and I notice that the children of Arkansas will miss out on $3.5 million a year that we could be providing them for improving the health and well-being of our children through healthier meals and through greater access for low-income children.

We look at the economy and the economic crisis we have come through. We know many working families are in dire straits. Having to go through what they are going to have to go through to try to get their children into a free or reduced lunch is unbelievable. Yet that is a great place for those children to get a healthy meal when their families are suffering in these economic times.

I look at what some of my neighbors might receive. I notice Texas. Texas gets well over $32 million in these increases to help them provide for their children through breakfast programs and lunch programs in their schools and in their school districts.

Some of my other neighbors—Missouri. I look at Missouri and I see almost $6.5 million. Think about what it would mean to those school districts and those school service programs to have those additional resources. Those are critical dollars that schools desperately need to help reverse the dangerous trend of childhood obesity.

All it will take is just a few hours of floor time to pass this bipartisan, fully paid for legislation.

Another provision in our bill expands the at-risk afterschool snack program, also known as the Child and Adult Care Food Program. Our bill expands this program so afterschool sites in every State can offer children a full, healthy meal so they do not have to go hungry in the afternoons as parents are working and, at the end of their work day, having to pick up their children and then trying to get home to feed them. If we do not pass this bill, 29 million nutritious afterschool meals will not be served to hungry children.

Other provisions in our bill expand and improve the use of direct certification for free school meals through the SNAP and Medicaid Programs. There will be 120,000 eligible low-income children each year who will not receive quality meals if we neglect our responsibilities and fail to pass this legislation.

Again, as I mentioned yesterday, I think of the mountain of paperwork that comes home from school in the backpacks of my children at the beginning of the school year—paperwork that has to be filled out that is detailed. We know that through a direct certification program—and we know those families have already filled out that paperwork, whether it is for Medicaid or whether it is for other programs they qualify for, such as SNAP or other programs—it is critical that we use that opportunity and those resources to feed hungry children instead of the staff it takes or the time of the parent or the neglect, perhaps, because there is not enough time to fill out that paperwork so that child could have access in a dignified way to the free or reduced school lunch they need so desperately.

I emphasize again that the critical investment this bill makes is completely paid for and will not add one cent to the national debt. I know people have great concern about the debt because I do too. I know my constituents do, and I know my colleagues do. In the committee, we worked hard, in a responsible way, to ensure that this bill would be a good, common-ground area where we could come to find an increase for a very critical need but to also pay for it in a responsible way. This truly is an investment, Mr. President, in the next generation. It ensures that our children will be healthy, and it does so without saddling them with the financial burden they cannot afford.

Make no mistake, Mr. President, if we fail to pass this legislation there will be real-world consequences. Those statistics I just cited aren't just numbers, they are very real children. They are very real children from the age of 5 to the age of 18. Mine happen to be right in the middle right now, but they are growing boys. I know how desperately important it is for them to get nutritious meals, and I work hard at that. I know every other parent out there wants to do the same for their children; real children who come from hard-working families are struggling to make ends meet. These are real children who struggle with obesity and will

deal with long-term health consequences throughout their lifetimes if we don't take the steps to both increase their availability to choices and, more importantly, increase their access to nutritious meals in the schools where they spend the majority of their day to begin with.

Let's take the time to pass this legislation. If it is a priority, we should do it, plain and simple. Just a few hours is all it will take. I hope my other colleagues will look at this issue and realize that even in the busy world we are in here, and all the things that we do, taking just a few hours to focus on things where we have done our work in committee, where we know it is essential, where we know it will expire, and when it does we will lose resources, that we can take the time now to get something done and move it forward.

So I thank you, Mr. President, for this time, and I say a special thanks to my ranking member, Senator CHAMBLISS, who does a tremendous job on the Senate Agriculture Committee. I am grateful to him for his hard work and dedication, and I am a great admirer of all the things he does and will continue to enjoy working with him on any of the issues he finds before us in the committee.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I came to the floor to speak on something else, but I just want to say to my chairman that I commend her for her hard work and dedication and her leadership on this issue of child nutrition. We have worked extremely hard over the last couple of years on this issue, and when she assumed the chairmanship of the committee, she really put this as a top priority and I think it was the first major piece of legislation we passed out of committee under her leadership. Boy, did she ever work hard to make sure that happened.

It is a pleasure always to work with her. She is exactly right. We have actually modified the bill a little, even though it came out of the committee unanimously. It is totally paid for, and we are using existing farm bill money, for the most part, to pay for it. So it is a matter of adjusting priorities within good, solid, agricultural policy.

So I thank her for it, and I look forward to this bill ultimately coming to the Senate floor and its passage.

2009 LITTLE LEAGUE SOFTBALL CHAMPS

Mr. President, I rise today to congratulate the Warner Robins American Little League Softball team on winning the 2009 Little League Softball World Series.

They visited the White House yesterday, where President Obama offered them congratulations, and I appreciate his hosting them in that very generous way. I can't imagine this will be the last time the Warner Robins Little League girls come to DC as the Softball World Series champions because they have the knack for winning.

The girls went undefeated in the tournament. There was only one game that was ever in doubt. In the final game they beat a team from Crawford, TX, by a score of 14 to 2. Undoubtedly, there must be something in the water down in Warner Robins because, boy, do these girls know how to win. And they deserved to win. Throughout the tournament they played with heart, played with courage, and played with sportsmanship.

In 2007, the boys Little League Baseball team from the same town—Warner Robins—won the world championship title, making Warner Robins, GA, the first community in America to have a baseball team and a softball team win their respective Little League World Series championships.

I am proud of what the girls have accomplished, but my pride cannot compare to that of Warner Robins, to the State of Georgia, or to the entire Little League community. I am also proud of the commitment shown by the parents, coaches, and managers, who offered so much love and support for these girls so they could achieve their dream.

Softball is part of our American heritage, our history. It is a sport that cultivates competitiveness, hard work, and speed. It is also a sport that prepares children for the ups and downs of adult life because it brings together people and builds communities.

I am grateful to these girls not only for the sense of community their softball team helps bring to Georgia, but also for the economic opportunities this win is helping to bring to Warner Robins. The Little League International's southeastern regional headquarters and stadium recently moved from Florida to Georgia, bringing hundreds of jobs to this city of 60,000.

Mr. President, it is my privilege to be able to give voice to the citizens of our State in congratulating Warner Robins on a job well done and on thanking these girls for the recognition and opportunities they have brought to middle Georgia.

Once again, I offer my congratulations to the Warner Robins Little League Softball team on this very special occasion, and wish its players the best of luck as they defend their title over the next year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in just a few moments Senator LANDRIEU is going to come to the floor to talk about the small business bill, and I will just say a word or two about my support for her efforts.

She did something extraordinary last week. She is a determined Senator, and the time came when she wanted to see a fund created to lend money to small businesses. So she took to that desk and grabbed her charts and stayed there all day until she got the job done. She got 60 votes, which is a daunting task sometimes in the Senate, and added into this bill a fund to loan money to small businesses across America.

We need it. We need it across America, and we need it in Illinois. There were over 258,000 small business employers in Illinois in 2006—that is the last year for which we have data—led by professional services and construction firms. They account for over 98 percent of the employers in our State. These small businesses added 93,000 jobs in 2006, more than three times as many jobs added by Illinois companies with more than 500 employees. We can see that small businesses are a major part of our job economy. Another 850,000 people work for themselves, meaning the number of people working for small businesses was actually dramatically larger.

I fear that some of the firms likely to have failed during this economic crisis would have continued to do battle and might have prospered if they would have had access to credit. That is why this small business bill is so important.

Yesterday, the Republican minority leader, Senator MCCONNELL, came to the Senate floor and questioned why we would even raise the so-called DISCLOSE Act, about the Citizens United decision at the Supreme Court. He said we should be on the small business bill. I couldn't agree more. I hope that sense of commitment and urgency from the Republican side will be shown again today.

If there are amendments, let's bring them to the floor, debate them in an orderly fashion, and bring them to a vote so we can bring this bill to passage. The House of Representatives is waiting for this bill. They want to help us move forward to help create jobs and turn this economy around. The best place to start is with the small businesses across America. With 10.8 percent unemployment in Illinois, it is crucial we help Illinois small businesses start hiring again.

I personally thank Senator LANDRIEU for her leadership. What she is taking are TARP funds, funds that were originally designated to go to the biggest banks in America but didn't. They were funds that were held back. What Senator LANDRIEU is doing is claiming these funds that went to these big banks and saying: Now let's send them to healthy banks, banks that are not going to fail, with the understanding they will loan them to small businesses. That, to me, is a good answer.

I am disappointed with what happened to TARP initially. To think that we sent these moneys, taxpayers' dollars, to some of the largest financial institutions in America that were guilty of misconduct and bad judgment and they showed their gratitude by announcing bonuses for their officers instead of paying back the Government right away, is inexcusable.

The remaining funds, some $30 billion, will come into this small business effort. I think I have heard Senator LANDRIEU say the multiplier on this is a factor of 10, so there could be some $300 billion across the economy.

In Illinois, in Chicago, across my State small businesses say: If we could just borrow money, we are doing well, we can expand, we can hire more people. But even though we have a good story to tell, with banks we have always worked with, we can't get the credit.

I thank Senator LANDRIEU for her leadership. We are going to get back to this bill. As I said, as she was preparing to come to the floor, if there are amendments, let's get these amendments in order, let's have a reasonable time to debate them, and then let's move on. Let's get this done and pass it over to the House so they can act on it before we leave next week. That is critically important. The House, I know, is hoping to wrap up this week.

Let me clarify one point. Although at one point in time this $30 billion lending fund was to be created from unused TARP funds, I'm reminded that this is no longer the case. This fund will be created independent of the TARP or any other existing program. It will be a standalone lending facility within the Treasury that will help small businesses access loans through community banks. And according to the Congressional Budget Office, this fund will not cost the taxpayers a penny—in fact, it will raise money to help reduce the deficit.

I urge my colleagues to support this bill, to help Americans get back to work.

I thank Senator LANDRIEU for her leadership and I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Louisiana.

Ms. LANDRIEU. I understand, under a previous order, I have the next hour to follow up on Senator DURBIN's comments. I would like to claim that hour now.

The PRESIDING OFFICER. The Senator is recognized.

Ms. LANDRIEU. Mr. President, the Senator from Illinois is absolutely correct. One of the last remaining works that we have to do, as we try to wrap up this portion of the session as we move to an August work period in our home States and our home districts, is to get this small business bill passed. It has been a focus of the Democrats. It has also been the focus of some Republican support. That is what I wish to talk about today. I wish to make sure we understand that the team that is following this bill is a broad team of hundreds of organizations from the Chamber of Commerce to the National Federation of Independent Business, to the Small Business Alliance, to the Community Bankers of America, to individual business owners around the country, as the Presiding Officer knows because he himself has been a great leader in this effort. The point I wish to make in the first few minutes of this hour is the tremendous bipartisan support and input that has gone into this bill to get us to this point.

There is some criticism that is not valid. There is a criticism out there that Democrats are trying to ram this through and Republicans have not been able to offer amendments. The facts are that this bill, this small business job growth bill, has been built through two committees, the Finance Committee and the Small Business Committee.

I have the pleasure and honor of chairing the Small Business Committee. Senator BAUCUS chairs the Finance Committee. For the last, literally, year, these two committees have been working to bring a bill to the floor that is focused on Main Street, not Wall Street; that is focused on job creation, not capital accumulation; focused on job creation on Main Street through traditional, old-fashioned, smart strategic lending to small businesses that have the potential to grow.

We know there is no disagreement that the new jobs created—the Presiding Officer will know—will be created by small businesses that do not hoard their cash. They cannot wait for a better day. They have to act now. That is the nature of small business. Lucky for us it is, because if we give them a little help, they can start creating that one new job or two new jobs or three new jobs. But if it is done millions of times across the country, which it can be, it can make a difference in a significant way by creating literally the millions of jobs we need.

If people want to know why this is a jobless recovery, I would like to say—because it seems like it is—that is because we have been giving a lot of money to the big guys: a lot of money to Wall Street, a lot of money to big manufacturers, large manufacturers. But if we would spend some time today—and we have over the course of drafting a bill which we have done in a bipartisan way—to get money to Main Street, we might see an end to this recession. That is the hope of all of us.

This is a description, Small Business Jobs and Credit Act of 2010. These are just the small business provisions—small business access to credit. You will see here, this was done jointly by myself and my ranking member, Senator SNOWE. It passed our committee 17 to 1, and we have almost an equal number of Republicans and Democrats on our committee. It passed with overwhelming support. This will increase 7(a) loans from $2 to $5 million, increase 504 loans from $1.5 million to $5.5 million, and increase microloans from $35,000 to $50,000.

It also extends the 90-percent guarantee on loans up from 75 percent and eliminates fees.

Let me read what one business in Louisiana says. I can probably read you thousands of testimonies, but let me read from one. Sawyer Industrial Plastics of West Monroe has been in existence for 32 years. It has provided plastic repair parts for the paper industry. Mr. Sawyer's line of credit was canceled by his bank so he needed to term out his debt as well as arrange for expansion capital to move into other areas that could design plastic parts.

Mr. Sawyer's existing business would service his debt, but without capital to expand into new markets and industries, his long-term business prospects would be tied to the weakening paper industry.

With this provision that was in the stimulus package but which has expired, which is in this bill—which will reignite when this bill passes but not a minute before—Mr. Sawyer was able to get a 90-percent guarantee. It allowed the lender, North Louisiana BIDCO, to leverage its capital and provide more funds to meet this $700,000 loan. The waiver of the guaranty fee added over $20,000 to available working capital.

In other words, instead of paying the $20,000 to the Federal Treasury, under the provision we are passing, he paid it to himself, which is the point of our legislation.

We have $12 billion in tax cuts for small businesses and that is not including this fee waiver I am talking about now. This is a significant amount of money to go into the pockets of small business owners. Mr. Sawyer, from my State, took that $20,000 and, instead of paying a fee to the Federal Government, we are waving those fees under this bill, and he hired an additional worker.

That is the point. That is the point of this bill you have helped to draft. We are reducing fees, we are reducing taxes, and we are targeting much needed capital—access to capital to small businesses, which will create the jobs that lead us out of this recession. So he added a new employee and he added some new product lines.

Another story comes from First Bank and Trust. This is in Mandeville, LA. It is about Woolf Harris, Inc., a 14-year-old company. The acquisition of a building recently left the business short of cash. Although the national economy turned down, residual effects of two recent hurricanes continue to push demand for the product. It is a plumbing supply business. Lacking adequate collateral for a conventional loan, First Bank and Trust—again, a local trusted community bank—was able to extend a $120,000 line of credit, with a $125,000 3-year term loan for working capital to Woolf Harris. With the 90-percent guaranty, First Bank felt comfortable taking the soft collateral available to secure the loan while being able to provide Woolf Harris a most favorable interest rate of 2.25 over prime.

This might not sound like a lot, but to small businesses out there struggling, getting a loan at 2.25 points over prime is much better and much preferable to having to put it on their credit card and pay 16 percent or 20 percent or 24 percent or run down to the payday lender because they are so desperate for cash and pay 36 percent or 50 percent.

If we can't help small business now, I don't know when we can. This bill we

put together with bipartisan support is supported by the Independent Community Bankers, the U.S. Hispanic Chamber, the National Small Business Association, the National Federation of Independent Business, the Small Business Majority, the National Association of the Self-Employed, and, yes, the U.S. Chamber of Commerce. They told me this morning they are proud that their membership is actually representative—96 percent is made up of small business. So I am proud to have the Chamber support for this legislation.

Now we need all these coalitions to support bringing this debate to an end. We agree there are some amendments, two or three, that could be added—on the Republican side, on the Democratic side. We could have an open debate. But there is such a thing as amending a bill to death. I do not think that is going on. I hope it is not going on. I believe both leaders are working in good faith.

But to the small business team out there that has done such a good job in building bipartisan support for this bill, I hope you will trust me when I say that at some point the debate has to come to an end and we have to vote on a bill. If we do not, we will leave here—I do not want to be one who does leave here without doing one of the most important things that I think we were sent here to do; that is, create jobs. The people creating the jobs are not us, it is the small businesspeople out there. To leave without this bill—fully paid for, $12 billion in tax relief, reduced regulations, reduced fees, and expansion of very popular and broadly supported programs—would, in fact, be a shame.

I see the Senator from Virginia who has worked so diligently on this bill. If I could, as I relinquish the floor to him, I would like to ask him if he would comment, as a former Governor of the State of Virginia and someone knowledgeable about the programs he initiated as Governor, how this bill might be helpful to those programs and what other Governors are saying about this bill today, if the Senator would not mind answering that question.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I appreciate the opportunity to join my colleague and friend, the chair of the Small Business Committee, the Senator from Louisiana, in support of this very important piece of legislation. Let me first of all say: In her inimitable style, she has been relentless on this issue. The Presiding Officer and I are both new Members. I think we have seen, in our short time here, certain Members who get that bit in their mouth and just will not let it go. On this issue, Senator LANDRIEU has truly been a leader. It is an issue of paramount importance.

I wish to answer the question of the Senator, but I wish to first of all preface it by saying what I hear in Virginia—and I know what the Senator hears in Louisiana, with all the other challenges Louisiana has—is our constituents want us to focus on jobs. On any historic basis coming out of recession, 65 to 70 percent of all the new jobs created come from small businesses.

And while we can point to certain positive signs in our economy right now—the Dow at 10,500 from a low of 6,500, 15, 16 months ago; corporate balance sheets, large Fortune 500 companies with more money on their balance sheets than at any point in recent history—good news. But if they are not hiring—and I hear from corporate CEOs, as well, their concern that the small businesses that are in their supply chain are going out of business, not just the small businesses that would normally go out with a traditional recession, but this recession has been so deep and so hard that we have now cut through the fat and we are into the muscle and bone. And if we continue to lose small businesses at the rate we are, then the ability to create a robust recovery will be dramatically stymied.

So what do we do? There is no single silver bullet. And what the Senator from Louisiana has crafted is a menu of options for small businesses, to get them that additional assistance, particularly in terms of access to credit, that will allow them to get back and do what they do best—continue to innovate, grow, and create jobs.

The Senator asked me what I am hearing from other Governors. Other Governors, Democratic and Republican alike, are saying that we in Congress have to focus on jobs. The issue of credit and access to credit to small businesses is paramount to all of them, and they want to see this legislation passed.

I was a former chair of the NGA. This is the kind of issue where Governors of both parties come together because we don't see these issues simply through Democratic or Republican partisan lenses. And sometimes this is the kind of bill that, candidly, as I remember as Governor, you kind of scratch your head and say: This is kind of a no-brainer. This bill is paid for. Why would not the Congress do all it can to support small business?

The Senator has outlined, and I know I was repeating some of the items, but I want to reinforce again—I want to particularly focus on one part of this legislation, but there are really four buckets here. They are, how can we expand some of the initiatives within the Small Business Administration that were put in place, particularly in the trough of the downturn, to make sure that these SBA programs, which have been vitally important to small business lending, are maintained—the 90-percent matches, some of the other loan guarantee programs?

I should acknowledge right here that I think the Administrator of the SBA, Karen Mills, has done a remarkable job in streamlining a lot of the processes. I have heard from banks for years about their challenges in dealing with SBA. Well, the current SBA team realizes this is a moment of crisis, and they have done everything possible to streamline their procedures. They need to have these tools put back in place so that the SBA can continue to do the very important work and, candidly, work that goes much broader in terms of a portfolio of small businesses that they are now attracting to their programs than in the past.

I would also acknowledge the dramatic increase in the number of particularly independent and community-based banks that are now accessing and using SBA programs. If we don't pass this legislation, these programs will be dramatically cut back, No. 1.

No. 2, the Senator has crafted, again, at her committee, in a bipartisan way, a whole series of targeted small business tax cuts, a kind of accelerated depreciation that will have the ability to write off core investments, the ability to focus on these job creators. How can we give them a little bit of a break right now, during these challenging times, in our Tax Code?

The third bucket in this program is building on a proposal the Senator and I and others had. We actually suggested this to the administration last October, but they have now built in a $30 billion lending program. The interesting thing about this lending program is it actually, on CBO scoring, scores as a net positive. So this is money not only that we will recover, but we will make—albeit a small one—a profit on it, to shore up particularly independent and community-based banks and give them a direct incentive in terms of increasing their small business lending.

Then a fourth bucket, one that I have been working on—and I wish to commend both my colleagues from Michigan, Senator LEVIN and Senator STABENOW. They have been very active in this as well—which is saying: Can we take what is already working in the marketplace at a State level and build upon it? This is the so-called Capital Access Program. Twenty-six States in America already have this program in place, and those States that do not have it can, in effect, piggyback on other State programs. So there is no need to create new bureaucracy. There is no need to create tons of new paperwork.

I hear, I say to the Senator, from my banking community that this particular initiative is one that they are perhaps even the most supportive of because they know how to do it, they know how to access it, and it can immediately generate a great deal of additional lending.

Let me take a moment, at the Senator's discretion and time—I know this is her hour, but I wish to take one moment to explain it because I think we have focused on the lending facility, we focused on SBA, we focused on some of the tax cuts, but the Capital Access

Program has not received as much attention. Each State has slight variations, but let me describe how this initiative works.

Basically, the independent bank, frankly, at this point is probably a little leery of making a loan, even to a relatively healthy small business because chances are, most small businesses coming out of this recession, their cash flows are down, and if they have real estate as collateral, it has perhaps declined in value. So while I have great sympathy for the small businesses that cannot get their credit lines renewed, I also understand the bankers' predicament in that small business credit isn't quite as good as it was, perhaps, in 2007.

So how does this program work to benefit these small businesses? What it basically does is it creates a separate loss reserve pool for small businesses that fall into this category. What does that mean? If a small business was coming to a bank, a local bank in Baton Rouge or a local bank in Martinsville, VA, wanting to borrow $100,000, the bank would charge that small business a couple of extra points—$2,000 or $3,000 out of that loan that would go into a separate loss reserve pool. We, with this Capital Access Program, would then match that separate loss reserve pool for, again, a matching amount of points, 2 or 3 additional points. So on a $100,000 loan, you would have $6,000 that would be absorbed, first dollar loss, if this loan went into default. Now, the bank still has to do its due diligence because if you eat through that $6,000, the bank has to bear the burden. But it gives you a little cushion there. It takes that marginal credit and makes it creditworthy during these challenging times.

Think about this $100,000 with that $6,000 loss reserve pool taken times a hundred or times a million. You could have a $100 million basket of small business loans with a $6 million reserve, and suddenly you have a very valuable tool that can be used by banks across the country.

The roughly $1.4 billion, $1.5 billion that is in the legislation in this program, it has been estimated it will be leveraged. And I know ''leverage'' is a bad word in this Hall at this point, and I particularly have pointed out some of the concerns of overleveraging. But because the person who is receiving the loan is putting up money and we from the government side are putting up money, we actually double every dollar we put out, and on an actual dollar basis, we are going to be leveraging the Federal dollar commitment 20 to 30 times. So that means this $1.4 billion, $1.5 billion can create $50 billion of additional small business lending. Think about the power of this tool, a tool that banks are familiar with, a tool that already exists in 26 States, a short-term shot in the arm for an awful lot of small businesses that might not prefer to use the SBA program, might not want to go through a bank, that might want to access the lending facility. It just gives us one more tool.

So I hope my colleagues and folks who are watching and listening will recognize that what the Senator from Louisiana has tried to create is a menu of options because there is no one-size-fits-all in the case of small businesses. Their needs are different. The banking community's desires are different. I think she has crafted a great tool that will dramatically help small business lending.

If we want to go back to our constituents in the month of August and talk about a real, live deliverable, if we want to talk about what we have done in a tangible way that will get credit back into the small business lending pool, that could be delivered by Labor Day, we need to make sure we move forward on this important piece of legislation.

I again commend the chair of the Small Business committee for her relentless work on this issue. I hope our colleagues from the other side of the aisle will hear all of the various business organizations across the political spectrum that are supporting this legislation. My hope is that we can deal with the amendments, get those amendments dispensed with at some point during the day, and pass this bill today because it is very important to making sure this recovery we are just starting to creep into is actually not a jobless recovery but a recovery that creates jobs. To do that, we have to have these small businesses healthy.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I wish to thank my colleague from Virginia for that explanation and for his commitment to this bill and this effort. He was an extremely successful Governor before he became a Senator, and I say ''successful'' measured by the way those of us in public life are measured: by results. He left his State with a surplus. I know he did not do that singlehandedly, but it is a great feat these days to leave office with a surplus, and he did, with very high approval ratings and with a reputation as being very strong on fiscal matters. I think that is what our Congress needs. I thank the Senator so much for his help on this bill because that is exactly what people are looking for—a smart, strategic way to move big pieces of legislation forward but with our eyes on the bottom line and our eyes focused on results, not bureaucracy, not regulation, not additional rules, et cetera, but real results.

That is the way this bill was built. It was built with, as the Senator said, menus and choices, not one-size-fits-all. We did not say: There is one way to save small business in America, and this is what we are going to do. We said: We have heard a lot of good ideas. Let's try to put them together in a bill—some strategic tax cuts, some reduced regulation, some reduction in fees, and some options for capital.

Options—none of this is mandatory. All of this is voluntary on the part of the banks—all voluntary. If they want to use those programs to lend to small businesses, they can. No one is forcing them. No one is requiring them. And if they do, they can actually make a significant profit. So it really is putting the incentives in the right place.

That is why this is not anything like TARP. We are not using TARP funds to fund this. We are not designing it like TARP. TARP was a completely different program in size, scope, and focus. TARP stands for Troubled Asset Relief Program. It was for big banks that were failing. This is for small community banks on Main Street that are healthy, so that they can lend to the small businesses that can grow with the money the banks lend.

Let me read a letter we just received from the Lake Charles area, which is the southwestern area of Louisiana, from a business, Lake Area Marine.

It says: Dear Senator Landrieu. Lake Area Marine strongly supports your substitute bill, the Small Business Lending Fund Act, and the other parts of the bill. Our company is based in Lake Charles. The provisions outlined will restore much needed credit to small business owners like me, by addressing one of the primary reasons for the extent of the depression in the boating industry. By restoring the disruption in the recreational boating industry's distribution chain caused by the credit crunch, thousands of American jobs will be preserved or created.

It goes on to say: The Small Business Administration's dealer floor plan financing—which is part of this bill—is a critical component, helping, as I said, to raise the cap, from $2 million to $5 million.

We have hundreds of letters. This happens to be from a marine business, but there is floor plan financing for other businesses where large inventories are required. Although lots of people do buy products in the house from the Internet, as you know, millions of consumers still like to go to the showroom, they like to touch and feel and drive and see before they buy a car, buy a boat, buy other products. Many of these businesses in all of our States have seen their lines of credit evaporate, just go away. This bill is a lifeline for them.

So I thank the business owners, such as Jerald Link, who sent me this letter, and the thousands of business owners around the country who have said, yes, let's pass this bill now.

I see my colleague from Michigan. He also helped to craft a section of this bill. I would like him to explain the importance of that particular section which has to do with supporting weakened collateral in States such as Michigan, States such as Nevada, probably Florida, where they have seen such a depression of real estate prices. Thank goodness not so much in Louisiana, although the spill and the moratorium are giving us fits at the moment. But

last year our prices held pretty well. In Michigan, in Ohio, Florida, Nevada, California, these assessments collapsed. Small businesses were trying to function and were asked to put up collateral, and did. Then the banks came a long and said: Mr. Jones or Ms. Smith, you have collateral, but it used to be worth $500,000. Now the assessors are out there, and it is only worth $200,000. We are pulling your loan.

If we don't do something to fix that, they are going to lose their business. It is that simple. This is not complicated. It is horrifying, it is painful, but not complicated.

Senator LEVIN worked hard and came up with an innovative solution. Hopefully, he will speak about how this provision will technically work in Michigan and throughout many of the States.

I, again, wish to read into the RECORD some of the specifics about this initiative and talk about job creation by small businesses. First, to reiterate, there is great support for this bill, in large measure because it is not like TARP. It is not funded with TARP moneys. It is completely different—different focus, different scope—than TARP. What it does do is create a small business lending fund to banks with less than $10 billion in assets. TARP, although some of the money did go to middle-size and small banks, most of it was taken by the big banks, worth billions and billions of dollars. This is only for small banks, $10 billion or less. There are about 8,000 small community banks in America. The SBLF, Small Business Lending Fund, is performance based, unlike TARP, which we sort of gave the money and said: Do what you need to do with it. This says: If you take the money, you need to lend it to small business. When you do, we will give you a discounted rate so your bank can make more money, and the small business can make more money.

The most important part, equally important, the taxpayers can be repaid. This program doesn't cost the Federal Government money or the taxpayers money. It will make $1.1 billion, according to the CBO score. This is what I call smart government. This is not big or little government; it is smart government. It is leveraging the power and assets of the Federal Government. There are many to be proud of. It is using it to support Main Street so that jobs can be created, the recession can end, people can get back to work, business can flourish, and then we can work our way out of the terrible deficit situation we inherited. This recession called for additional spending which was necessary, although it is troubling. In this case we are going to make money on this program for the taxpayer.

It also supports a new small business credit initiative, as Senator WARNER explained. It is going to save taxpayers $1 billion.

One of the most important components of this argument is the 81-percent job loss in the last year. This is from the national employment report. People need to know—and it is startling—that 81 percent of the jobs lost in America were from small business. Only 19 percent were from large business. The dramatic dropoff in employment has come from small business. If we do our job right on this bill today and tomorrow—not in September, not next week but today and tomorrow—if we do our job in the Senate, it will give the House enough time to deal with this before they go home, and we can give relief now. The pain is so great. The times are so desperate. They are not getting better. This is the bill that will jumpstart, jolt, be a catalyst.

We have tried other things this year. Some things have worked; some haven't. But there is great confidence that this bill we are putting forward now will do the job. It is not one size fits all. It is not mandatory. It is a smart, strategic, voluntary, public/private partnership which makes so much sense in this day and age.

I see others who may want to speak. Then, hopefully, we can get to a vote in the next few hours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I congratulate Senator LANDRIEU and thank her. I am on the Small Business Committee. I serve with her on the committee and others. I have watched her extraordinary talent flourish as chair of the Small Business Committee.

The bill before us does something we all say we believe in; that is, support small business. Every Member of this body has pointed out something which the Senator from Louisiana knows and reflects in her work; that is, the engine of jobs is small business. We all say that. Most of us believe it. I hope all of us believe it, if we say it. It is not a partisan comment. This is a jobs bill which should get bipartisan support. Some of the jobs efforts have not. But this bill, because it is focused on small business and because that focus has been supported so regularly by Republicans and Democrats, will pick up some Republican support, I hope. It deserves that support.

Senator LANDRIEU has reached out to try to obtain that support for this bill. I hope she succeeds. In addition to thanking her for her great work on this bill, I wish to note the work of the Presiding Officer who worked very hard on a provision of this bill. As a matter of fact, he has worked so hard on other provisions on other bills which have recently passed this body and been signed into law. But Senator MERKLEY is actually the key sponsor of a provision which I will not be focusing on but which I believe has either already been discussed or will be.

I commend Senator MERKLEY for his great work on this bill with that particular provision.

I wish to begin my description of the part of the bill I have focused on with a thank-you, a thank-you to Senators SHERROD BROWN, STABENOW, WARNER, BAUCUS, SHAHEEN, BEGICH, MCCASKILL, and others who have worked so hard with me on a very major provision of this bill which I will now spend a few minutes describing in detail.

Senator LANDRIEU made reference to a significant fact in this recession; that is, the value of real property has gone down. Almost all of our houses are assessed at less now than they were a few years ago. I don't know if that is 70 percent or 80 percent, but it is a high percentage of homes that have lost value because of the recession. The home is exactly the same home, it is either maintained well or not, the way it was before the recession. This is true with businesses.

In all of our States, when we go home the thing we hear about more than anything else is jobs—get credit flowing to small businesses that, through no fault of their own, are unable to obtain credit; not because they are not creditworthy, not because they don't have customers, but because the collateral for their line of credit has gone down in value because of the recession. It hasn't gone down in value because it isn't maintained. It has gone down in value like most other businesses and industries on the same block or in the same community because the recession has reduced the value of these real assets.

The part of the legislation I have focused on is called a State small business credit initiative. It provides crucial funding to State and local programs that expand capital access for small businesses. We have lots of companies in all of our States that have stayed open. They have customers, they have business. Indeed, in many instances, they have more customers than they are able to handle and want to expand. I will give a few examples of how that has happened in my home State of Michigan, and I believe it is true in other States. The customers are there; the creditworthiness is there. We have many examples of businesses that have never missed a payment on money they owed to the bank down the street or in their community. They are creditworthy.

The problem is, because the banks require a certain ratio of collateral to the amount of the loan, that ratio cannot be met because of the collateral's loss of some value in the recession.

A couple success stories are a powerful argument for expanding these programs which are in 30 of our States, and other States will be able to follow these programs and pursue these programs as well when this bill passes.

In Saline, MI, a company called Saline Electronics makes electric circuit boards. They are good at it, and they are so good that in 2009 the company began to plan for an extension of their facility because it was too small to handle increased production. However, it hit a roadblock when the recession came.

Just as the company was exploring their expansion possibilities, the recession battered down the value of their real estate. Their building fell in value. So, again, they had good credit and great demand for their product, so much so that they wanted to expand, but the value of the collateral it could offer in applying for a loan had shrunk. That logjam carried a real threat that good-paying jobs for American workers would be going overseas instead.

We have a collateral support program in Michigan. It stepped in to end that threat. The program is designed exactly for situations such as this, where the value of equipment or the real estate has fallen because of the recession and, therefore, the collateral amount is not there as it was previous to the recession and would not support the loan because of the ratio between collateral and the amount of the loan required by local banks. But the State has this collateral support program. With that support, Saline Electronics was able to add 32,000 feet of production space and hired 30 new workers. There are similar examples across my State, across the country and, again, in the 30 other States that have a similar program.

Another example from Michigan: In Grand Rapids a company called Display Pack, a packaging company, got more than $1 million in financing through Michigan's capital access program which uses, again, very small public investments to leverage larger commercial loans for small businesses. That particular funding created 20 new jobs and saved another 125 that may have been at risk.

Driesenga & Associates, a small statewide engineering firm, used the same program to get loans for operating capital expansion. They added 11 new jobs, protecting 120 existing jobs.

This program in Michigan has used only $24 million in State government commitments to generate over $600 million in private financing. That is a hugely smart investment, and especially so when small businesses are so starved for capital.

As Senator LANDRIEU pointed out, this is not big government. This is not small government. This is plenty smart government. If you can leverage $1 of Federal funds and get, in this case, $30 of private funds as a result, that kind of leverage of public funding to private funding is a particularly smart investment.

But as the State budgets have been stretched and more and more businesses have sought access to these programs, there is an inability to meet rising demand. So the need for Federal support is great.

The State Small Business Credit Initiative in the legislation before us would provide support for States such as Michigan and the roughly 30 other States that now have them. Again, States that do not have these programs would have access to that Federal support and could start these programs. The House has approved a larger amount than is in our bill. On the other hand, we have a significant amount in this bill, and I thank Senator BAUCUS—that even though it was not to the amount the House put in for their bill, it is a significant portion of that, and we are appreciative of his support for this provision.

So there are a lot of other provisions in the bill that are worth commenting on, and, obviously, we are supporting, including the Small Business Job Creation and Access to Capital Act, which raises Small Business Administration loan limits. It includes a proposal I offered for an Intermediary Lending Pilot Program, which allows the SBA to make loans to intermediary lenders, such as business incubators, which can then loan that money to growing businesses.

The Small Business Lending Fund, which is included in this bill, which is the provision I referred to, which Senator MERKLEY, Senator LANDRIEU, our chairwoman, and Senator LEMIEUX and others have worked so hard on, is very similar to the Bank on Our Communities Act, which I previously had cosponsored.

So this bill is the right approach because it supports the engine of job growth. It is a small business bill.

It deserves the support of Senators of both parties. I hope, given the job situation we find ourselves in and the support that has been proclaimed for small business across the aisle and on this side of the aisle, we can find some good, bipartisan support for this tremendous initiative.

(Ms. LANDRIEU assumed the chair.)

Mr. LEVIN. Again, I commend our chairwoman, Senator LANDRIEU, who I now see is the Presiding Officer, and all those who have worked with her to bring us to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I also rise to discuss provisions of this bill and would like to begin by saying, when one gets into the details, you see there is a spectacular array of provisions that have been put together by the Small Business Committee to assist small businesses in helping them get themselves back on track, and, in the course of doing so, get our Nation back on track.

Particularly, I thank the chair of the Small Business Committee, the Presiding Officer, Senator LANDRIEU, for working in such a bipartisan manner to bring together the best ideas that can be brought to bear in that effort to assist our small businesses.

I will mention just a few of them. A 100-percent exclusion of small business capital gains will be big factor for helping our small businesses, a carryback provision so small businesses can take and balance out losses against former profits, making the general business credit not subject to the alternative minimum tax, increasing the Small Business Administration loan limits, eliminating the Small Business Administration loan fees, and so on and so forth.

These are terrific provisions to assist small businesses. But I wish to particularly speak to two additional parts of this bill. One is the Small Business Jump Start Act. This is intended to help businesses get started in their first year. Under this provision, it allows the deduction not of $5,000 in startup expenses but of $10,000. So it is a doubling of kind of a jump-start or a boost to getting businesses off the ground. It is for those entrepreneurs who say: Here is an opportunity, and I am going to take a big risk, and I am going to take my savings or borrow against my house or utilize my credit card in order to jump in and seize this opportunity.

It is giving those folks additional help in that first year, and who knows when those first-year efforts—when so much is at risk—are going to turn into the successes that employ person after person after person on Main Street in communities throughout this Nation.

The second piece I wish to address is the Small Business Lending Fund. I think every legislator who has been spending time back home in townhalls has heard from owners of small businesses, has heard the stories of how a long-term banking relationship—a relationship in which they knew they could always turn to their community bank for help—has not been able to yield the credit they need at this moment and not through the fault of the community bank. The community bank wants to lend but because the community bank's capital has diminished, they are at the limit of their ability to make loans. Unless they bring in additional capitalization, they are not able to make additional loans, no matter how good that opportunity might be.

We have heard about small businesses that, in fact, are having to rely upon their credit cards. The percent of small businesses in America that are currently turning to their credit cards has increased 14 percent in a single year—14 percent more small businesses having to rely on a credit card because they cannot get access to traditional lending from their community bank.

Well, this chokepoint in our system is essential to address because if the small business entrepreneur cannot access credit to seize an opportunity or to expand on a successful formula, then we will not be putting businesses back to work, we will not be putting citizens back to work for those businesses. So that is what the Small Business Lending Fund does.

There are a number of questions that have been raised about it. I wish to address each of those. But I wish to note the potential of taking $30 billion in recapitalization, which actually makes a profit for the taxpayer—CBO estimates a profit of $1.1 billion—and in addition will bring in additional revenue through the taxes on the additional

folks who are employed and the larger small business profits. So the $1.1 billion, that is just the base. That is not including the additional revenue that will flow from the success of small businesses and the restoration to employment of workers across this Nation.

So one of the questions has been: Will these funds recapitalize or bail out failing banks? The answer is absolutely not. This is a program for small business, making capital available to small businesses through healthy community banks. That is a very important distinction, and there are ratings in which the regulators evaluate the health of banks. They range from 1 through 5. They are called CAMELS ratings, and only those banks with ratings of 1, 2, or 3—that is, healthy banks—will be eligible for this program.

A second question has been: Well, if we help recapitalize community banks, is there a possibility they will sit on the funds, prepare for a rainy day or a rainier day? The answer is no. The program is structured so that if funds are lent out, then the dividend rate falls to 1 percent. But if they are not lent out, the dividend rate rises to as high as 7 percent. Well, that 7-to-1 distinction means you are not going to borrow money if you do not have an intention of using it to leverage funds to lend out because you will be losing money, and you want to take advantage of that incentive to only pay a 1-percent dividend. So there is a lot of carrot in this in a structure that makes it illogical for a bank to seek these funds in order to sit on them.

A third question is: Why utilize community banks to help get lending to small businesses? Why not just do it in some other direct government fashion?

Well, the answer can be discerned by anyone exercising a small portion of common sense. Main Street banks are in the business of evaluating opportunities, entrepreneurial opportunities, and funding those opportunities to make a profit. That is what community banks do. That is their expertise. This approach builds on the expertise of Main Street banks to produce successful Main Street small businesses across our country.

Another question that was raised was: Will recapitalization cause banks to have to rush to make speedy loans and not take the time to evaluate that business opportunity thoroughly? The answer is it will not, because this program was designed so there is a 2-year span of time in which a bank has the opportunity to make that transition from capitalization to lending before the dividend rate is locked in. So there is no incentive for a rush to judgment.

I ask all my colleagues: Is not this the type of bipartisan problem-solving America wants us to undertake, bringing forth, through the committee process, through an open discussion—with television cameras running—the consideration of this idea and that idea being merged together to bring to the floor a coherent piece of thoughtful legislation to help address one of the major challenges in America, which is getting our small businesses back on track? Is not this what we are being brought here to do?

So I applaud the Small Business Committee. I applaud the work of the chair and all the members of the committee who produced this type of concrete aid to put Main Street back on track, to create employment for citizens across this Nation, and, by so doing, put our Nation back on track.

Thank you, Madam President.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank my colleague from Oregon, who has been one of the creators and designers of this bill and who has been a leading advocate and tireless in his efforts. He has conducted probably dozens of meetings in his office with Treasury officials, with Members from both sides of the aisle.

I have put this poster up in the Chamber because I want everybody to know this is what we are talking about today: small business. We spend a lot of time in this Chamber talking about lots of other issues—foreign aid, other countries, big corporations, Wall Street—but today, in these few hours—today and tomorrow—we are going to be talking about small businesses on Main Street. Small businesses on Main Street, I think they deserve this time, and they deserve our focus.

I know there are many other issues Members of this body, both Democrats and Republicans, want to solve or try to solve before we break in a few days. But I have to say, we cannot solve every problem in the world in this bill for Main Street and for small business. Some have criticized and said: Oh, well, the Democratic leadership is not allowing amendments. Nothing could be further from the truth.

This bill was built on amendments in committee—amendments by Democrats, amendments by Republicans, negotiations. The Presiding Officer most certainly knows this. I see my colleague from Texas, and I know he will have time in a moment. But the Presiding Officer knows, because she is a member of the Small Business Committee, this bill was built on a foundation of bipartisan support for small business because we all agree we want to end this recession, and the best way to end it is by smartly investing in strategic alliances with community banks and other lenders to get money to small businesses on Main Street. That is what this bill does.

As I conclude, I am asking Members on both sides of the aisle: Let's work with our leaders. Let's not burden this bill to help Main Street with amendments that have nothing to do with small business, that have to do with other political objectives, et cetera. Let's try to come together for the benefit of all of the 27 million small businesses in America that are watching us, hoping we can take the right steps to help them end this recession and get the country moving again.

I see my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas.

ENERGY

Mr. CORNYN. Madam President, I wish to speak for a few minutes on the subject of energy. Particularly I wish to contrast the approach that has been taken by the administration with regard to the blanket moratorium on drilling in the Gulf of Mexico for at least 6 months—but who knows how much longer that will slip—and a better approach that I think will provide a way of promoting safety but also not kill jobs in the Gulf of Mexico, particularly in the Gulf States, including Louisiana, Texas, Alabama, and Florida.

There is no secret about the fact that the blanket moratorium, which has been struck down by a Federal judge as unjustified by the rationale given by the administration, is now being appealed, so drilling activity has essentially halted—new drilling activity in the Gulf of Mexico. I think there is a better way to approach this. These ideas are actually included in the alternative we will be considering I hope as early as tomorrow. I think there is a better way to approach this.

A few weeks ago I had the opportunity to fly from Sugarland, TX, 200 miles offshore into the Gulf of Mexico to a drilling rig called the Noble Danny Adkins. This drilling rig was sitting in 9,000 feet of water, and of course it was idle as a result of the drilling moratorium. When fully operational, it employs up to 200 people, but of course they weren't working because there isn't any drilling going on. This particular rig was scheduled to drill in more than 12,000 feet of water to a depth of 37,000 feet. It is one of dozens of rigs not doing any work today because of the uncertainty caused by the moratorium. I had a chance to talk with a number of the professionals who work on that rig, and I have to tell my colleagues my impression of being on an offshore rig was like my first experience going to NASA. It is that technically advanced and that impressive.

The offshore drilling industry is a highly technologically advanced operation in which many very skilled professionals are working. These are typically high-paying jobs, as my colleague from Louisiana knows. My fear is that the blanket moratorium imposed by Secretary Salazar of the administration, unless it is modified in a more rational way, will destroy 50,000 jobs and up. We already know that the moratorium has caused two drilling rigs, offshore rigs—which cost an incredible amount of money to lease, and, of course, you can't afford to have them sit idle and not do what they are designed to do. What happens is with the moratorium attached, two of these rigs we know of moved to Egypt and one to the Republic of the Congo. Of course, with the departure of the rigs, the

workers go too, and it is a big question as to whether those rigs and the jobs associated with them will ever return.

But it is not just the people who work on the rigs such as the Noble Danny Adkins and the other rigs that are idle now as a result of the moratorium; it is the associated businesses that support the oil and gas industry in the Gulf of Mexico, such as Sunbelt Machine Works Corporation. This is a small family-owned business I visited which manufactures many of the tools that are actually used in deepwater rigs such as the one I visited in the gulf. We need to think of not just the impact on the people who work on these rigs but also everybody who supports those efforts, including the people who supply food, people who supply the machinery, people who fly, the people who work on those rigs. Everyone is impacted negatively by a blanket moratorium.

My colleagues don't have to take my word for it. The Energy Information Administration recently projected that in addition to killing jobs, it will actually cost a lot more than that in terms of the domestic production of oil and gas that we will have to make up for by importing it from abroad. The dependency we have in this country, which is a true national security problem, would be exacerbated by this moratorium, because as long as America is going to continue to consume oil and gas, until we are able to develop new forms of energy in the future, as I hope we will, we are going to continue to consume oil and gas in this country. Right now, about 30 percent of the oil consumed in America comes from the Gulf of Mexico—30 percent.

The Energy Information Administration recently projected that domestic production will decline as a result of the moratorium by an average of 31,000 barrels a day in the fourth quarter of 2010 and then by an average of 82,000 barrels a day in 2011. By December 2011, monthly oil production in the Gulf of Mexico will decrease by an average of 100,000 barrels a day. Assuming the economy picks up, as I hope it will, we know there is going to be demand for that oil which will need to be replaced and, of course, where does that come from but places which I know most of us would rather not have to do business with: Venezuela, to mention one.

The Louisiana Mid-Continent Oil and Gas Association estimated last May that the impacts of the moratorium were estimated to be 80,000 barrels of production loss per day . That is what they estimated for 2011. They estimate up to 37,000 jobs will be lost, and $7.6 billion in future government revenue will be put at risk. That is the effect of this blanket moratorium.

I wish to talk about a better solution, I believe, that was offered in the energy legislation Senator MCCONNELL introduced last Thursday which incorporates this approach.

I also wish to talk for a minute about the attempts to basically make it impossible for independent oil and gas companies from working in the Gulf of Mexico. How do you do that? Well, it would be by raising the liability cap, or by removing it entirely, thereby making it impossible for independent oil and gas companies to work in the Gulf of Mexico because they, frankly, can't afford the insurance for unlimited liability. Under the current regime, there is a limit of individual liability up to $75 million and, above that, 8 cents on every gallon of oil imported into the United States or produced in America goes into an oilspill trust fund which is then used to pay for anything not covered by the $75 million liability for the company.

Well, if, as some of my colleagues have proposed, we eliminate that cap, it makes it impossible for smaller companies—these independent oil and gas companies—to operate in the Gulf of Mexico or anywhere else. They simply will go out of business or take their operations elsewhere if they can.

Let me give my colleagues an idea of what the job impact on that would be. In 2009, independents accounted for more than 200,000 jobs and $10 billion in State and Federal taxes and royalty payments. As my colleague from Louisiana knows, because she was one of the principal negotiators, we were able to get royalties which actually go to the Gulf Coast States for the incidental impact of oil and gas operations in the Gulf of Mexico. Of course, all of that income will be lost, together with the royalty that would be paid to the U.S. Treasury, as a result of the moratorium and certainly by chasing off these independents. The study forecasted that by 2020 this would eliminate 300,000 jobs and cost $147 billion in Federal, State, and local taxes from the gulf region.

The study also concluded that if independent oil and gas companies are excluded from deepwater oil and gas operations, the job loss would be 265,000 by 2020 and $106 billion in lost tax revenues over the 10-year period. Of course, we know other countries are delighted with this moratorium because it means these rigs and these operators are moving to these other countries, creating jobs there and producing oil and gas from there.

For example, a recent Washington Post article reported that Brazil, Canada, Nigeria, Angola, and Libya are among the countries that are moving forward with drilling, lured by oil reservoirs they are discovering that are two to six times as big as the average Gulf of Mexico reservoir. As I mentioned, once these rigs leave the United States, leave the Gulf of Mexico, they go to places with far less stringent regulatory controls than we have here in the United States, so actually the risk of an environmental disaster is greater in these countries that have far more lenient regulatory regimes. In fact, the moratorium has the perverse effect on safety as the newest and most expensive and most technologically advanced rigs move overseas to work while the less-in-demand older rigs stay behind.

I mentioned there is a better alternative than a blanket moratorium such as the administration has proposed, and unlimited liability exposure which will basically chase off most of the independent oil and gas companies as proposed by the legislation that we will be considering tomorrow. My trip to this rig and my visits with these workers and these experts in producing this domestic energy source have made me even more convinced that it is an absolute mistake and really, frankly, not very smart, to essentially cut off our domestic oil and gas production from the gulf. Senators VITTER, WICKER, and I have introduced legislation which would lift the Obama administration's blanket moratorium and instead would require companies to go through new safety inspection requirements and then to be certified by third parties, after which the Department of the Interior would have to issue a permit for continued exploration and development of our domestic oil and gas reserves in the Gulf of Mexico.

Our legislation would essentially limit the moratorium and make it easier for good-faith and conscientious operators who are in compliance to get their permits approved quickly and keep the rigs and jobs here at home. Our approach would ensure that operators who are in compliance with safety guidelines have some deadline on when their permits would be considered and keep gulf coast residents, and particularly those who work in the oil and gas industry, at work, and continue to produce American energy and not make it necessary for us to continue to buy that additional amount, in addition to what we already are purchasing, from abroad.

Instead of reconsidering this devastating moratorium, though, I know the majority leader has introduced a bill that would have the Secretary of Energy publish a monthly study evaluating the effect of the moratorium. Well, I have to say we don't need a study to know what the effect of the moratorium is in Louisiana and in Texas, in Alabama and along the gulf coast, because we already know its devastating impact. I wish to invite my colleagues, any of them who wish, to come and talk to some of the folks who work in this industry and to look at the sophistication and the technological expertise that they employ in producing oil and gas in the Gulf of Mexico. I would be glad to help host them.

One example, though. A seismic company in Texas is spending $250,000 a day under a contract with the leaseholder to explore a potential area for oil and gas, but the seismic company can't even get a permit to do the work. I don't know how long they can hold on, how long they can continue to keep people on their payroll if they don't have any work to do. Something has to

give. These hard-working folks who live along the gulf coast don't want to wind up as another statistic on a monthly report on the impact of the moratorium, nor do they want to add to the 9.5 percent unemployment in this country, higher even in some parts of the country; as high as 14.2 percent in Nevada. They want to work. They don't want to collect unemployment benefits. They want to work, and they want to provide for their families. I think they deserve better from their elected officials than this blanket moratorium or job-killing policies which are going to basically move their jobs overseas.

The fact is we need to maintain our position in the gulf. Eighty percent of oil produced in the Gulf of Mexico comes from deepwater reserves now off limits due to the moratorium.

Without this activity, production will fall as much as 100,000 barrels a day by December 2011. To put this into perspective, the United States uses almost 20 million barrels of oil a day and produces nearly 5 million barrels a day, obtaining the rest from imports. The moratorium will not only destroy tens of thousands of jobs; it will leave us more dependent on foreign oil and gas, raising the cost of any products shipped and transported, not to mention travel.

I think Jay Leno basically had it right when he said:

President Obama said today he is going to use the Gulf disaster to immediately push a new energy bill through Congress. I've got an idea. How about first using the Gulf disaster to fix the Gulf disaster?

That ought to be our focus—preventing recurrences such as we have seen in the gulf—and I think we can do that by the safety inspection mechanism and third-party certification and let's get on with the production of oil and gas from American sources, rather than having to bring it in from abroad.

We need to focus on the problems and look at solving these problems and not use these disasters as a reason to exploit them and to grow government and kill jobs in the meantime.

America's energy security will continue to depend on oil and gas for the foreseeable future. As much as I like the idea that we are developing new energy resources—Texas, for example, produces the most electricity from wind sources of any State in the country—we know that developing these alternative sources of energy is still going to be a long time coming. We need to bridge into that new energy future, and that bridge will continue to consist of American-produced oil and gas.

The question is, Will it be to the benefit of the American people in the form of good-paying jobs and associated revenue or will the misguided policy, included in the bill introduced by the majority leader, ensure that we merely increase our imports that we need and send the good jobs and rigs overseas by this misguided policy?

I hope my colleagues will reconsider this misguided approach that would drive independent oil and gas producers out of the Gulf of Mexico by making it financially impossible for them to purchase the insurance they need in order to comply with an uncapped liability. We know the resources will remain there in the case of another disaster, which we hope and pray will never occur because of the oilspill liability trust fund—again, funded by 8 cents on every barrel produced in America, as well as every barrel imported from abroad. So this isn't eliminating a fund that will actually pay in the event of another catastrophe.

Certainly, we don't ground all airplanes in America or around the world when there happens to be a terrible airplane crash. We look at the problem and try to make sure we understand the reason why it happened, and then we move on and continue flying.

I think the oil and gas industry basically operates the same way. We need to make sure we understand what happened in this spill, do everything humanly possible to make sure it never happens again and make sure BP is held accountable and pays for all the cleanup that needs to be done as a result of this unfortunate incident. But the conclusion we should reach should not be let's shoot ourselves in the other foot by denying ourselves access to American energy and increasing our dependency on imports from abroad and, at the same time, kill jobs along the gulf coast in the oil and gas industry and all those companies and businesses that support the oil and gas industry during a time when unemployment is already at 9.5 percent.

We can do a lot better than what the majority leader's bill proposes and continuing job-killing policies. We can actually do it smarter and better and come up with a real solution rather than creating more problems.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRATULATING WARNER ROBINS' GIRLS SOFTBALL TEAM

Mr. ISAKSON. Mr. President, I am very pleased to come before the Senate today and commend the Warner Robins, GA, girls softball team that yesterday attended the White House and was honored by President Obama.

The 11- and 12-year-old girls who went all the way last year and this year are in the finals to hopefully do the same thing again. This team of young women is coached by a great group of coaches: Emily Whaley and her assistants, Patti Carriker and Roger Stella.

I commend each one of these young ladies individually: Kaylee Albritton, Sydney Barker, Carson Carriker, Melissa Cox, Sabrina Doucette, Ashley Killebrew, Avery Lamb, Hannah Livingston, Caitlyn Parker, Sierra Stella, Kelly Warner, and Chelsea Whaley.

This is a fine group of young Georgians who went all the way in the Little League level and are about to do it again. In fact, yesterday, as she was leaving the White House, President Obama asked her if there was anything she had to say. Ashley Killebrew said: Mr. President, we are doing really well this year, and we are going to be back next year because we are going to win it again. That is the type of positive attitude in sports that separates the winners from the second-place finishers.

I commend the Warner Robins Little League softball team, young women from Warner Robins, GA. I thank the President for honoring them yesterday at the White House.

BIENNIAL APPROPRIATIONS

Mr. President, we have been going through difficult economic times as a country, not only in our expenditures but in the revenues of our citizens of our States who face higher unemployment, lower productivity, and very difficult economic times.

As I have watched us on the floor time and again deal with paying for new amendments that have been proposed, we are all of a sudden scrambling to find a savings here to borrow from Peter to pay Paul to patch together an appropriations bill that hopefully keeps us out of debt but unfortunately continues to keep us in a downward spiral of borrowing.

I wish to talk today about legislation I have introduced and have been joined by other Members of the Senate, a bill that has a simple proposition to it, and that is that maybe as a government we should start doing what the people of our country have to do—determining how much we take in, prioritizing what we spend—and get back into balancing our budget, while providing oversight on what we spend to see where savings can come from.

There is a great American who has a syndicated radio show called Dave Ramsey. I don't know how many of my colleagues have ever heard him. He started Financial Peace University. He started it after he went bankrupt in the real estate business. He did a great job in real estate on the way up but leveraged himself all the way, so when times got tough and the leverage was too difficult, Dave Ramsey went bankrupt. After a couple years of struggling, he got himself back together and built himself a large company on the basis of a philosophy of staying out of debt and spending within your means. I commend everybody to look at his proposals, read his book, or attend Financial Peace. It is really an interesting concept because it works.

Dave Ramsey suggested that what you really ought to do when you get

into economically difficult times and you owe more than you take in is sit down and say: All right, what do I make? And you write that down. You write down what you have to spend—utilities, food, whatever it might be—and then see what is left over. If nothing is left over, then you have to take the things you are spending on and don't have the money for and have been borrowing and begin to cut it piece after piece, so that each month and year you live on a budget that is not predicated on going into debt and living beyond your means.

We as a country must do the same. There may be an exception, obviously, for war. There may be an exception, obviously, if there is a significant terrorist attack or a tremendous international incident or a natural incident that takes place that might demand some short-term appropriations. But in the general expenditures of government, we have to get back to the business of spending within our means.

How do we do that? We have 12 individual appropriations bills or an omnibus bill that rolls in at the end of the year talking about spending $3.6 trillion. We cannot do it that way. We have to have a process where we are able to examine on what we are spending money, quantify how much money we are going to take in, and balance the two numbers so we do not go into debt.

My suggestion and what I want to talk about is a biennial budget or appropriations, a change in the way we do business and how we do it, which I believe will result in less debt, more reasonable spending, and a more rational expenditure by the U.S. Government. First of all, it is predicated on appropriating for 2 years rather than 1 year. The appropriations years should be the odd-numbered years, and the even-numbered years should be dedicated to oversight.

I know the distinguished Presiding Officer, as I do, sits on a number of committees. Every now and then, we will have an oversight meeting, but more often than not, oversight gets left out because the focus is on what we are going to spend next or what project is going to be added to what we spend our money on. That process itself builds more debt, builds a bigger appropriations act, and never allows us to do those things we should be doing; that is, focusing on prioritizing the expenditure of our money.

We all know, because from time to time we have found them, there are savings in the appropriations. We know that from time to time in oversight, we find dollars we did not realize we had. We need to make it a part of our culture in the Congress of the United States that when the even-numbered years come, two things ought to be happening: One, Congress ought to be doing oversight of its expenditures, and second is running for office. I would love to see a time when running for office is in a year when we are doing oversight so we are focusing more on what we are saving the American taxpayers than what we are going to spend to try to impress them to get their vote one more time.

We have a serious, difficult problem in our country. We have a debt of $13 trillion. I am going to be the first—not the first who ever said this. I am not going to let this speech end without saying it. I voted against appropriations bills under President Bush, and I voted against them under President Obama. I am not taking a target at anybody. We all have a responsibility, and it is time we focused on a way to start saving rather than continuing to spend.

I would like nothing better than that focus on savings to take place in the same election year where everybody is running to be reelected to come back and do the job. We would change the dynamics and paradigm of Congress toward a focus on savings rather than a focus on expenditures. Will it be difficult? Yes, but it is going to be a whole lot more difficult very soon. Our country owes $13 trillion today and is moving toward a number that could be as high as $19 trillion before the end of the next decade.

To put in perspective how much that is, I will tell a short story. I was in Albany, GA, making a speech at the end of last year, and I referred two or three times to $1 trillion.

At the end of the speech, this farmer raised his hand and said: Excuse me, Senator, can I ask a question?

I said: Sure.

He said: How much is 1 trillion?

I don't know if you ever thought about it, Mr. President, but when somebody asks you a question like that, you try to come up with a comparison to explain, and it is hard to do, and I had a difficult time. In fact, I fumbled around, and I am not sure I ever did a good job of quantifying how much 1 trillion really is.

I got home and talked with my wife. I said: I got stumped today, sweetheart.

She said: What happened?

I said: I was on the stump in Albany and was asked by a farmer to explain what 1 trillion was, and I couldn't quantify it. I didn't know a good comparison.

In her own inimitable way, she said: Why don't you figure out how many years have to go by for 1 trillion seconds to pass?

I thought, that is a great idea. I got a calculator out and multiplied 60 seconds times 60 minutes to get the number of seconds in an hour. I multiplied that times 24 to get the seconds in a day. I multiplied that by 365 to get the number of seconds in a year. And then I divided that product into 1 trillion.

Mr. President, do you know how many years have to go by for 1 trillion seconds to pass? It is 31,709 years. We owe $13 trillion. We are at a point where we are going to go one way or another. Fortunately, we are recognizing that we are at that point.

I submit one of the keys to stopping the growth of debt and improving the plight of our country in the future for our children and grandchildren is to begin spending within our means. And it takes a process such as a biennial budget or biennial appropriations where we combine the responsibility of spending with the absolute responsibility of oversight.

Everybody in America today during these difficult times is looking at where they spend their money, and they are trying to find savings. They are trying to find those places they can better allocate their money so they are not going into debt, not borrowing, and not raising the prospects of debt in the future. The American Government ought to be doing the same thing.

I voted for the supplemental for our troops in Afghanistan last week, and we will do it again. That is a special appropriation for our men and women, who deserve that backing at a time we commit them to war. We are not always at war. War is a special and difficult time, and we ought to give our troops the support they need. But in every other case, it ought to be an expenditure that is based on the priorities of what are the most important things we should be doing. When we find those things that do not meet that test through oversight, that is where we begin the cutting process. Over time, the process is motivated toward savings, motivated against borrowing, and motivated for a balanced budget. I submit that we can talk about it all day long, but until we put it in a framework that brings about that type of process, we will never really do it.

The biennial budget with appropriations in odd-numbered years and oversight in even-numbered years ensures we begin in an election year being accountable to the electorate on what we are spending. And in those off years when we are appropriating, we are doing it based on the previous year's oversight, so we know the effectiveness of the department we are appropriating the money for and whether it was prioritized appropriately the way it should have been.

At a time when we are focusing on spending money, focusing on an appropriations act which will come up this November after the elections, I think we can look this year at going to a biennial budget process in future years so that instead of rolling everything into an omnibus bill after the elections, we have a process that ensures it is done systematically, as it should be, in odd-numbered years for appropriations and in even-numbered years we are doing oversight, so our election is based on accountability of spending money, not how much we can borrow and how much we can spend.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the Senate floor again today as someone who has practiced medicine in Casper, WY, taking care of families there since 1983. I come also as the medical director of the Wyoming Health Fair and someone who has brought low-cost blood screening to people, looking for ways to help with early detection of medical problems, whether it is high blood pressure or diabetes or cancer because so often early detection means early treatment and, as a result, longer survivability and better care.

So I come to the floor of the Senate today with a doctor's second opinion about the health care law that was signed by the President a little over 100 days ago. The goal, of course, of health care reform was to lower the cost of care, to increase the quality of care, and to increase the access to care around the country. Since this bill was signed into law, we have heard week after week of new unintended consequences. We hear the personal stories of people whose lives have been affected because of the law, whose lives have been impacted by the unintended consequences of the law.

During the entire debate, I was concerned if the legislation passed and became law that it would be bad for patients relying on our health care system, bad for providers—the nurses and the doctors in this country who take care of patients—and bad for payers because I believed the law would drive up the cost of care, making insurance more expensive, and also have an impact on the taxes people would pay. So I have come each week, as I do today, with this doctor's second opinion of things that have happened during the past week; new things that we have learned about the health care law and what is happening with trying to provide health care to so many Americans but also people worldwide.

As part of the discussion of this health care law, there was a discussion about the Canadian health care system and the British health care system. We now have in charge of Medicare and Medicaid in this country someone who has said he is in love with the National Health Service, which is the British health care system. So, Mr. President, I come to the Senate floor today having come across an article in a British paper—the Sunday Telegraph—about their National Health System—a system who some in this country have held up as a model. It is a system I look to as one that results in people having care delayed and care denied.

When I look at the survivability of patients after, say, cancer in the United States, we know patients with cancer survive longer in the United States than in Britain or in Canada, and not because our doctors are better but just because people receive more timely care.

Mr. President, I am going to quote from this article, but I ask unanimous consent to have printed in the RECORD the entire article.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARRASSO. Mr. President, this article, as I said, is from the Sunday Telegraph, and the headline is ''Axe falls on NHS services.'' This is dated July 24, and it talks about some of the most common operations performed in England, including hip replacements and cataract surgery. I am an orthopedic surgeon, so I have done many hip operations, but this is what the article says:

> Many of the most common operations—hip replacements and cataract surgery—will be rationed as part of attempts to save billions of pounds, despite government promises that front-line services would be protected. Patients' groups have described the measures as ''astonishingly brutal.'' An investigation by The Sunday Telegraph has uncovered widespread cuts planned across the National Health Service, many of which have already been agreed by senior health service officials. They include: Restrictions on some of the most basic and common operations, including hip and knee replacements, cataract surgery, and orthodontic procedures. Plans to cut hundreds of thousands of pounds from budgets for the terminally ill, . . . the closure of nursing homes for the elderly . . . a reduction in acute hospital beds, including those for the mentally ill.

The article goes on:

> Thousands of job losses at NHS hospitals, including 500 staff to go at a trust where cancer patients recently suffered delays in diagnosis and treatment because of staff shortages.

They are cutting 500 more staff positions there. The article continues:

> The Sunday Telegraph found the details of hundreds of cuts buried in obscure appendices to lengthy policy and strategy documents published by the trusts. In most cases, local communities appear to be unaware of the plans.

When we read on in this article, it is very disturbing. If I were living in Britain, I would be very disturbed. As someone living in the United States, with a new person now in charge of Medicare and Medicaid who has said he loves what is happening in the British health care system, I have great concerns.

The article also says:

> As well as sending more patients home to die, the paper said the savings would be made by admitting fewer terminally ill cancer patients to hospital because they were struggling to cope with symptoms such as pain. Instead, more patients would be given advice on ''self management'' of their condition.

In other words, essentially telling them to go it alone. These are very disturbing words and a very disturbing situation now occurring in Britain.

Next, there is an article that appeared in Tuesday's New York Times—yesterday's New York Times—entitled ''Settling Down to a New Job, but Hampered by Old Words.'' This is an article about the new Director of Medicare and Medicaid. This article by Robert Pear talks about the fact that the new administrator has never had a confirmation hearing, never had a confirmation hearing and never had to respond to the American people through Congress to the questions that the American people have about the person who is newly in charge of Medicare or Medicaid, especially when we see the hundreds and hundreds and hundreds of billions of dollars spent every year by Medicare and Medicaid.

The article says he never had a confirmation hearing and has not responded publicly to critics. It goes on to say:

> The White House has declined to make him available for an interview.

Amazingly, the budget—we hear so much about the Pentagon and the military budget—but, amazingly, the budget of Medicare and Medicaid is larger than the budget for the Pentagon. Here we have someone newly appointed, in a recess appointment, someone in charge of Medicare and Medicaid at a time when this Congress, through its action and the laws signed by the President, cuts $500 billion from our seniors on Medicare and does it without having someone come and explain to Congress how he plans to keep the quality of care up or try to keep the quality of care up at a time with such cuts—not to save Medicare but to start a whole new government program.

Dr. Berwick, it goes on to say, ''has received an honorary knighthood from Queen Elizabeth II in 2005,'' because of his love of the British health care system. In fact, they quote him here in this article saying, ''I am romantic about the National Health Service.'' He says, ''I love it.''

The other thing so interesting, at this time in the history of the United States, is we now have someone in charge of Medicare and Medicaid who says that ''any health care funding plan that is just, equitable, civilized and humane must—'' and he repeats the word ''must''—''must redistribute wealth from the richer among us to the poorer. . . .''

It is no surprise that this week in a report out Monday, 58 percent of Americans, in a Rasmussen poll, favor repeal of the health care law. Fifty-eight percent of Americans favor repeal of a law that was forced down their throats, with people around the country saying no, don't do this to us, we do not want to go in that direction. But this Congress, this body, felt it knew more than the American people.

I talked a little bit about the British health care system. People also look to

Canada where, as the President said to us when we had our roundtable discussion in January, the summit at the White House, he said: Everybody in Canada gets coverage.

There is a big difference between coverage and care. It is interesting where things are turning in Canada. It is in Regina, which is the birthplace of Canada's socialized health care system. That is where, in 1962, the bill was passed and the law was signed for a government-run health care system. Now the health care plan there is contracting out CT scans to the private sector. They are contemplating private reforms because the government system is failing.

Some people say: But in Canada everybody has a doctor. According to the Canadian Medical Association, this report shows 4 million to 5 million people still do not have a family physician.

By the government's own standards in Canada—and that is a government and those are standards where they are used to waiting in line, where they expect long delays—even according to their own standards they are saying the Canadians are now waiting too long for care. This is even after massive increases in spending.

They go on to talk about how much better the care is in the United States, in terms of surviving cancer, surviving heart attacks, surviving transplants—because in America there is greater access to preventive screening tests and higher treatment rates for chronic illnesses. So Canada is rethinking their system. Britain has announced they are rethinking their system under the new Prime Minister there, and the new government. They are cutting significantly more.

That brings us back to Dr. Berwick, who said ''the decision is not whether or not we will ration care, the decision is whether we will ration with our eyes open.''

It is no surprise that many people across this country view this nominee the same way that a former nominee who received a recess appointment was viewed. I will quote at the time Senator Obama when he was talking about a recess appointment made by then President Bush. He talked about the appointee, saying, ''He's damaged goods. He'll have less credibility.''

That gets back to the New York Times headline, ''Settling Down to a New Job But Hampered By Old Words.''

Does the public deserve a hearing for this Medicare appointee? Does the public deserve a hearing? Do they have a right to hear what this man has to say? According to the Washington Post, in a headline of their July 23 editorial, ''The public deserves a hearing for a Medicare appointee.''

This goes on and says, in explaining his move to sidestep the Senate:

> President Obama said in explaining his move to sidestep the Senate and use a recess appointment to install Donald Berwick to run Medicare and Medicaid—they had some reasons.

But they go on to say:

> Mr. Obama's hurry would have been more understandable had he not waited for more than a year to select an administrator. . . .

Now the President has resubmitted Dr. Berwick's nomination, as is the general practice here, and those Members of this body and specifically those on the Senate Finance Committee, want and have made a reasonable request for a confirmation hearing. Still, none has been planned.

It is interesting because the American people still want to know more about this nominee, what his beliefs are, and what we have to go by are the quotes. I have gone through a number of them now.

The question comes also to what questions does Dr. Berwick not want to answer. When one looks into the past, you say: He is a doctor, he is going to be involved with health care, he is going to likely have to live under the system with Medicare and Medicaid. I am sure he is not going to establish something that is going to impact his health personally. But that gets back to the source, where Dr. Berwick has come from. It turns out Dr. Berwick does not need to worry about those things. He does not have to deal with the anxieties the rest of America deals with, created by limited access to care and the extent of coverage. I am reading now from an article from Washington, from the Examiner:

> As it turns out, Berwick himself does not have to deal with the anxieties created by limited access to care and the extent of coverage.

It goes on to talk about a ''special benefit conferred on him by the board of directors of the Institute for Health Care Improvement,'' where he came from, ''a nonprofit health care charitable organization that he created and which he served as chief executive officer.''

He and his wife will have health coverage ''from retirement until death.'' He has now retired to come work for the government, to be the head of Medicare and Medicaid. According to page 17 of his employment contract, under postretirement health benefits, ''health care coverage from retirement until death.''

How many others can look for that sort of benefit who are working for nonprofit charitable organizations? Maybe he does not want to answer those questions. The Senate has a right and the American people have a right to ask the questions.

I also found it interesting that for somebody at a nonprofit charitable organization, that that benefit of health care from retirement until death went along with the salary he earned. His compensation in 2008—$2.3 million, in a nonprofit charitable organization. I think it is reasonable for people to want to ask the questions, where does the $12 million in contributions come from? Where are the grants? How did it come in? What impact are those people going to have and try to have on you as you work on rules and regulations in Medicare and Medicaid? Those are reasonable questions that the American people would want to have answered, yet we do not have the answers.

As a doctor, I go home every week, visit the people in Wyoming, and visit with doctors and nurses and patients. One of the things that strikes me is the last report—they talk about side effects. ''Obamacare,'' it says, ''Could Punish Docs for Better Quality Care.''

That is what I hear about the most at home from doctors who are taking care of their patients, saying: I do a good job, I do everything I can. Yet the rules and regulations are going to punish me for doing what I know is right for my patients.

Part of that is rules and regulations that are coming out of Medicare and Medicaid and the Secretary of Health and Human Services who is developing these with financial incentives dealing with patient outcomes. One of the things they want to do is punish people, punish physicians and hospitals by penalizing them if a patient returns to the hospital after they have been discharged within a certain number of days.

One of the finest hospitals in this country is the Cleveland Clinic, specifically relating to heart conditions. People from around the world—kings, sultans, queens—come to the Cleveland Clinic. Some fly in in their private jets. Why? Because of the quality of care at the Cleveland Clinic—very understandable.

It is interesting, when the Cleveland Clinic took a look at their numbers, seeing how they are likely to do under the scenario that the Secretary of Health and Human Services says is the way to improve care in this country, the clinic found—it has to do with people with heart failure, people who are being readmitted to the hospital, patients with heart failure. It is considered to be a sign of poor quality care when a heart patient must be readmitted for further treatment.

What the clinic did is they studied their readmission rates and they found that their readmission rate, in a 30-day period, was actually much higher than the national average. So they must not be a very good hospital, according to the Secretary of Health and Human Services, because that is how they are being judged.

But when you look at the Cleveland Clinic in terms of how the patients do, how many live for much longer, what we find out is that the survivability of the patients at the Cleveland Clinic is also much longer. More people survive. The results are better. So if you are a patient with heart failure, you want to go to the Cleveland Clinic. If, on the other hand, you are somebody who works at Health and Human Services and are just keeping the records, they are going to say: You don't want to go there because some people come back into the hospital.

Once again, we have a situation where government is saying one thing

and people—doctors, nurses, patients, families—know that the government is wrong and we should trust the doctors to make the right decision.

That is why I return to the floor today to say it is time to repeal and to replace this health care law. We need a patient-centered health care bill. We need to replace anything that is either insurance company centered or government centered, and be patient centered. We can do that by allowing patients to buy insurance across State lines, to give people who buy their own health insurance the same tax breaks that the big companies get; by providing individual incentives for people who stay healthy, take preventive measures, lose weight, get their diabetes under control, get their blood pressure down, quit smoking—provide those incentives because that will lower the cost of care.

We need to deal with lawsuit abuse and the expenses of unnecessary tests provided by doctors practicing defensive medicine. We also need to allow small businesses to join together to buy health insurance much more effectively.

Those are the things that will work to get down the cost of care, increase the quality and increase the access. That is why today I offer my second opinion: It is time to repeal and replace this health care law.

EXHIBIT 1

AXE FALLS ON NHS SERVICES

(By Laura Donnelly, July 24, 2010)

NHS bosses have drawn up secret plans for sweeping cuts to services, with restrictions on the most basic treatments for the sick and injured.

Some of the most common operations—including hip replacements and cataract surgery—will be rationed as part of attempts to save billions of pounds, despite government promises that front-line services would be protected.

Patients' groups have described the measures as ''astonishingly brutal''.

An investigation by The Sunday Telegraph has uncovered widespread cuts planned across the NHS, many of which have already been agreed by senior health service officials. They include:

Restrictions on some of the most basic and common operations, including hip and knee 7 replacements, cataract surgery and orthodontic procedures.

Plans to cut hundreds of thousands of pounds from budgets for the terminally ill, with dying cancer patients to be told to manage their own symptoms if their condition worsens at evenings or weekends.

The closure of nursing homes for the elderly.

A reduction in acute hospital beds, including those for the mentally ill, with targets to discourage GPs from sending patients to hospitals and reduce the number of people using accident and emergency departments.

Tighter rationing of NHS funding for IVF treatment, and for surgery for obesity.

Thousands of job losses at NHS hospitals, including 500 staff to go at a trust where cancer patients recently suffered delays in diagnosis and treatment because of staff shortages.

Cost-cutting programmes in paediatric and maternity services, care of the elderly and services that provide respite breaks to long-term carers.

The Sunday Telegraph found the details of hundreds of cuts buried in obscure appendices to lengthy policy and strategy documents published by trusts. In most cases, local communities appear to be unaware of the plans.

Dr. Peter Carter, the head of the Royal College of Nursing, said he was ''incredibly worried'' about the disclosures.

He urged Andrew Lansley, the Health Secretary, to ''get a grip'' on the reality of what was going on in the NHS.

The Government has promised to protect the overall budget of the NHS, which will continue to receive above-inflation increases, but said the service must make ''efficiency savings'' of up to £20 billion by 2014, which would be diverted back to the front line.

Mr. Lansley said last month: ''This protection for the NHS is protection for patients—to ensure that the sick do not pay for the debt crisis.''

Dr. Carter said: ''Andrew Lansley keeps saying that the Government will protect the front line from cuts—but the reality appears to be quite the opposite. We are seeing trusts making job cuts even when they have already admitted to being short staffed.

''The statements he makes may be well intentioned—but we would implore him to get a grip on the reality, because these kinds of cuts are incredibly worrying.''

Katherine Murphy, of the Patients Association, said the cuts were ''astonishingly brutal'' and expressed particular concern at moves to ration operations such as hip and knee operations.

''These are not unusual procedures, this is a really blatant attempt to save money by leaving people in pain,'' she said.

''Looking at these kinds of cuts, which trusts have drawn up in such secrecy, it particularly worries me how far they disadvantage the elderly and the vulnerable.

''We cannot return to the days of people waiting in pain for years for a hip operation or having to pay for operations privately.''

She added that it was ''incredibly cruel'' to draw up savings plans based on denying care to the dying.

On Thursday, the board of Sutton and Merton primary care trust (PCT) in London agreed more than £50 million of savings in two years. The plan included more than £400,000 to be saved by ''reducing length of stay'' in hospital for the terminally ill.

As well as sending more patients home to die, the paper said the savings would be made by admitting fewer terminally ill cancer patients to hospital because they were struggling to cope with symptoms such as pain. Instead, more patients would be given advice on ''self management'' of their condition.

Bill Gillespie, the trust's chief executive, said patients would stay at home, or be discharged from hospital only if that was their choice, and would be given support in their homes.

This week, Hertfordshire PCT plans to discuss attempts to reduce spending by rationing more than 50 common procedures, including hip and knee replacements, cataract surgery and orthodontic treatment.

Doctors across the county have already been told that their patients can have the operations only if they are given ''prior approval'' by the PCT, with each authorisation made on a ''case by case'' basis.

Elsewhere, new restrictions have been introduced to limit funding of IVF.

While many infertile couples living in Yorkshire had previously been allowed two cycles of treatment—still short of national guidance to fund three cycles—all the primary care trusts in the county are now restricting treatment to one cycle per couple.

A ''turnaround'' plan drawn up by Peterborough PCT intends to make almost £100 million of savings by 2013.

Its cuts include closing nursing and residential homes and services for the mentally ill, sending 500 fewer patients to hospital each month, and cutting £17 million from acute and accident and emergency services.

Two weeks ago, Mid Yorkshire Hospitals trust agreed plans to save £55 million in two years, with £20 million coming from about 500 job losses.

Yet, a month before the decision was taken, senior managers at a board meeting described how staff shortages were already causing delays for patients being diagnosed and treated for breast cancer.

Mr Lansley said any trusts that interpreted the Government's demands for efficiency savings as budget or service cuts were wrong to do so, and were ''living in the past''.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

HEALTH CARE

Mr. CARPER. Mr. President, I was going to talk about small business lending and some ideas about how to get our economy moving again. I feel compelled to say something. I had the privilege of visiting, almost a year ago, the Cleveland Clinic. The Cleveland Clinic is one of a number of well-known, highly respected health delivery systems in this country—the Cleveland Clinic, the Mayo Clinic, Geisinger, which is in Pennsylvania, Intermountain up in Utah, Kaiser Permanante out in northern California, and several others. They have demonstrated the ability to provide better care for less money. Think about that. Better care, better outcomes, for less money.

Their reputation is well known in this country, along with Mayo and some of the others I have mentioned. So I had an opportunity to go visit, go along with a member of my staff, Racquel Russell. We went and spent a day and actually stayed into the evening. It was so fascinating.

What we learned was that if we look at the health care delivery systems, including the Cleveland Clinic I just mentioned, try to look and drill down on why they are able to provide better health care, better outcomes for less money, they have a lot of things in common with one another. I want to mention some of them.

They focus on primary care, access to primary care. They like to catch problems when they are small, easy to repair, easy to cure. They focus big time on preventive care, making sure when people are the right age, they get colonoscopies or they have mammograms, and just a variety of other tests. They use preventive medicine to catch things when they are early.

If prescription medicines, pharmaceuticals can be helpful in controlling particular cases, they make sure people have access to that medicine. They actually coordinate care across not just doctors that happen to maybe be in oncology but doctors and nurses who are in different parts of medicine. It may be oncology, maybe it deals with pulmonary disease, dementia.

They do a better job working across medical lines than we work across party lines some days. But they do a very good job of coordinating care with different aspects of their health care delivery system. They have gotten away from what we call fee for service. Here we have something called fee for service. If the Presiding Officer, instead of being a Senator were a doctor, and I were a patient, I would come to see him. Every time I would come to see him, he would get paid. He would get paid for each visit. If he actually owns the lab he refers me to, every time he refers me to the lab for tests he gets some remuneration for that. If he has an interest in an imaging center, and I go for x rays or for MRIs or that kind of thing, then that is called fee for service.

What happens in a number of places in our country, not all, is sometimes the doctors will, in an effort partly to make sure they do not get sued, and partly to make sure they are doing the best job they can to cure people, and in other cases there is some financial incentive, just refer people to maybe more visits, more tests than they really need. That is called fee for service. That helps drive the cost of our health care system. They do not have that problem at the Cleveland Clinic.

I remember listening to an interview on television with a cardiologist at Cleveland Clinic, on CNN last year, before I went for the visit. He said: I am a cardiologist. He said: I am here at the Cleveland Clinic. I used to have my own practice. It used to be in my old practice I got paid—largely my salary came out of operating on hearts. He said: People came in and they were overweight or bad diet, bad fitness, and that kind of thing and just were not taking care of themselves, were not taking the right kind of medicines. I would urge them to do the right thing. But, he said, at the end of the day, if they did not do it, I would operate on their hearts, and that is how I made the bulk of my income.

He said: Here at the Cleveland Clinic, when somebody comes to me with a heart problem, at the end of the day, I may operate on their heart. But we work very hard to make sure they are fit, that they are eating the right food. We work hard to make sure they are involved in some kind of appropriate exercise regimen. He said: We work hard to make sure they are not only prescribed the right medicines, they actually take the right medicines and do all of those things.

He said: I get paid pretty much the same amount of money whether I am treating a patient that way or if I am operating on their hearts. I probably operate on fewer hearts today, but I think we get a better outcome for less money.

One of the things I learned at the Cleveland Clinic that day is all of the amazing things they do to harness information technology for the delivery of health care. I was in a Walgreens drugstore in Seaford, DE, about a week or two ago and had an opportunity to see how at the other end—in this case we will use pharmaceuticals—but this is a way to use information technology to drive down health care costs.

Anybody who was ever had a prescription given to them, written by a doctor, sometimes you look at it, you read it and say: What is this? Is this a prescription or does this say Alpo? What does this actually say? It is hard to read. My handwriting is not the best, but I read some others that are even harder than mine to read.

At the Cleveland Clinic, they do not handwrite prescriptions; they do electronic prescriptions so there is no mistake. They are smart enough with their IT system that all of their patients have electronic health records. So they have the full health care picture of their patient.

Not only that, if they were going to prescribe something, a medicine—let's say a patient is already taking 10 medicines. Whatever new ones they are prescribing, their IT system looks at the other 10 medicines. They look to see whether the new prescription is compatible with medicines they are already taking. They do not want to prescribe medicine that creates more problems than actually helps people.

Also, they have the ability—a bunch of our leading health care delivery systems—to know when a prescription has been ordered or that it has actually been picked up; that it has been filled and someone is taking it. They have the ability to know whether someone, if they are supposed to get refills in so many days, if someone actually refills the prescriptions and continues to take the medicines they are supposed to be taking. If they do not, they get a call from their health care delivery system, clinic, hospital, or doctor's office.

We are getting smart enough now, after mapping the human genome, to actually know what medicines—let's say the Presiding Officer and I have the same health condition, but we have a different genetic makeup. He can take this medicine, and it will make him well. I can take this medicine all day, all week, all month, all year, and it will never help me at all. We have the same problem, but because of our genetic makeup it will help him but it will not help me.

We are smart enough now to start figuring this stuff out. We are making sure that not only people are taking the medicines they need to take, but they do not interact badly with other medicines; that they continue to take the medicines they are supposed to be taking. But we stop spending money on medicines that are not going to help people and spend that money in ways that will help them and continue to provide the money for medicines that will help someone who has the right genetic makeup.

My colleague who spoke before me said we need to sell insurance across State lines. Well, one of the things we do in terms of things that work, we have a big purchasing pool that all Federal employees are part of, the Federal Employees Health Benefits Plan. We buy our health insurance from an 8 million-person purchasing pool, 8 million people. We do not have 8 million Federal employees, but if we add up all Federal employees, all Federal retirees, all of our dependents, it adds up to 8 million people. That is a large purchasing pool. We buy private health insurance from all kinds of private health insurance companies. They compete with each other, and it drives down prices. We have a large purchasing pool, economies of scale. The administrative cost for our purchasing pool is 3 percent; 3 percent for every premium dollar goes for administrative cost.

If you go out on your own and try to buy health care in the DC area or back home in Delaware or Illinois or wherever you are from, administrative cost for an individual, for a family, for a small business, is more like maybe 23 percent of premiums or 33 percent. But they are not 3 percent.

What we call for in our legislation, this new law, we want to create these large purchasing pools all across the country. Every State is going to be required to establish, by 2014, a large purchasing pool that individuals can join, families can join, small businesses can join to buy their health care. If it is a little State like Delaware, we are too small to have a big purchasing pool. But under our legislation, we can enter into an interstate compact with our neighbor, Maryland, or maybe with Pennsylvania, or maybe with New Jersey, or maybe with all of them and create a large regional purchasing pool, be able to drive down administrative costs, increase competition.

Listen to this, to my colleague's point: sell insurance, health insurance, across State lines. We have a four-State exchange or purchasing pool. The insurance sold in Delaware could be sold in Maryland; it could be sold in Pennsylvania; it could be sold in New Jersey, and vice-versa, to drive down costs.

My colleague mentioned we ought to incentivize people who take better care of themselves. Well, Senator ENSIGN of Nevada and I offered, and it was adopted and is part of the law today, something that says employers can offer premium discounts to employees who are overweight and lose weight, keep it off; employees who smoke, stop smoking, continue to stop smoking; employees who have high blood pressure, high cholesterol, if they bring it down, keep it down, they can receive premium discounts through their employer by as much as 30 percent for those employees to incentivize them to take better care of themselves and be less of a health risk.

A lot of the problems we have with health care today in this country flow from the fact that we are overweight. One-third of us are overweight or on

our way to being obese. Almost one-third of us are obese, kids too.

We actually have done in the legislation what my colleague was calling for, incentivize people to take personal responsibility. If they do that, they are better off. He also mentioned medical malpractice reform. We actually included in the legislation medical malpractice reform based on earlier proposals by Senator MIKE ENZI, also from Wyoming, and Senator MAX BAUCUS. They are in the bill. I think they are going to give us a lot of good ideas of what is working to do three things across the country: One, reduce medical malpractice lawsuits; two, reduce the incidence of defensive medicine; and, three, provide better outcomes. We will be seeing results of some very exciting things done in Delaware and other States to be able to emulate Michigan among those other States.

I did not come to the floor to talk about that. But when I hear stuff like this, I say: Someone needs to set the record straight. As a guy who is on the Finance Committee, I worked a lot on the legislation and focused on, day after day, month after month, trying to figure out how to provide better health care for less money, looking at other the Cleveland Clinic or Mayo Clinic or other entities, or looking at other countries, such as Japan. They spend half as much for health care as we do. Eight percent of gross domestic product is what they spend. We spend 16 percent. They get better results: lower rates of infant mortality, higher rates of longevity. They get better results. They cover everybody. We have about 30 to 40 million who are not covered.

So for us to say, well, we will just go willy-nilly on for the rest of this decade or this century and pretty much do what we have been doing, that is foolish. Ironically, some of things that my colleague was recommending, we are actually doing in the legislation and will be rolling out and doing more in the years to come.

The last thing I want to say before I move to small businesses and job creation is Dr. Donald Berwick has been nominated to be the head of CMS, which is the entity that oversees Medicare and Medicaid. One of the people I most respect in trying to learn about health care and health care delivery, finding out how we provide better outcomes for less money, is a guy named Mark McClellan. Mark McClellan, when I first met him, was a health adviser to former President George W. Bush. He ended up being the head of the Food and Drug Administration. I think for a while he was the head of CMS, the position to which Dr. Berwick has been nominated.

Among the people who have recommended Dr. Berwick highly for this position is Mark McClellan, who is an economist, who is a physician, who has actually run a couple of big Federal agencies. I think it would be smart to listen to a fellow who actually worked in a Republican administration, had the President's ear, and served us very well in some high-level positions, including the same agency, CMS.

It would be smart to listen to Mark McClellan. I think I might have misheard, but I thought there was an assertion that Dr. Berwick and his wife had worked for a nonprofit and he had health care insurance for the rest of his life, up to death.

I would just think, for the folks who serve here today, who served in wars—we have people who have earned the Congressional Medal of Honor for their service in World War II, folks who were prisoners of war in Vietnam and served, gosh, 20, 30 years and more in some cases in the military. They have lifetime insurance as well—not from being in the Senate but from the work for nonprofit; whether it was a State government or Federal Government or local government. I do not think there is anything that is so unusual about that. Should they be disqualified from being a Senator because they have lifetime health care because of their service or because they were Governor of a State or attorney general of a State? I do not know if that makes a whole lot of sense.

So I did not come here to talk about any of this, but I just felt compelled to mention these things.

Let me pivot, if I can, and just take 5 minutes to talk about small business. Mark Zandi is an economist, a smart one too. He started something called moodyseconomy.com. He comes and speaks to not just our caucuses, Democrats in the Senate, but he was, during the Presidential campaign in 2008, an economic adviser to JOHN MCCAIN, very well respected. He just calls them like he sees them, calls them like he sees them.

We asked him earlier this year: Well, why are we not seeing—even though job loss is way down, where 18 months ago we lost 700,000 jobs a month, last month we actually gained 50,000 or 60,000 jobs or so. I think that is about what we are averaging for the first part of this year. We want to do better than that. It is not like losing 700,000 jobs a month. So we have made improvements.

But we asked him: Dr. Zandi, why aren't big businesses hiring?

He said: Uncertainty. Businesses like certainty. There is too much uncertainty. He said this earlier this year. There is uncertainty about what, if anything, you all are going to do about health care; drive down costs, better outcomes, drive them down. What are you going to do about financial regulatory reform, Wall Street? What are you going to do about deficit reduction? What are you going to do about climate change, global warming, energy policy?

What are you going to do about transportation policy? What are you going to do about a variety of things but those major things I have just mentioned.

Dr. Zandi's counsel is: You want big companies to start hiring? They are making money. You want them to start hiring people? Address the uncertainties.

So we have addressed the uncertainty with health care, not to everyone's satisfaction, but it does a lot more good than bad. We have addressed the uncertainties with respect to financial regulatory reform. I think it does more good than bad. Not everyone shares that view, but I think it does. We are trying to address with our legislation today and this week, this month, next month, something called tax extenders; a lot of tax cuts, tax credits that expired at the beginning of this year, such as the R&D tax credit and biodiesel tax credit. A bunch of them are expired and have been expired for 7 months. We need to provide some certainty so that businesses and families know what to plan for and do.

We need to provide some certainty so businesses and families know what to plan for and do. Mark Zandi said those are the concerns for big businesses that want to start hiring, to address the uncertainty, and to provide predictability and certainty.

We said: How about small businesses?

He said: Unlike big businesses—a lot of big businesses are reporting pretty big earnings levels—a lot of small businesses are not doing so well. One of the things that small businesses need is better access to capital. They need to be able to borrow money and raise money, whether they want to buy or rent a building, buy new equipment for their building, whether they want to buy transportation equipment, trucks or whatever, forklifts, whether they just need money for working capital. Small businesses need access to capital.

There is not a perfect solution for that problem, but that is a big problem for small businesses, and access to capital is not the solution for every small business, but it is for a number.

The legislation before us seeks to address that need for small businesses. I will take a moment and read through a couple items in the legislation that commend it to the Senate and to our acting on it soon.

This bill has about $12 billion in tax incentives to help boost investment in small businesses and promote entrepreneurship. The bill eliminates the capital gains tax on small business stocks for people who purchase these stocks this year and hold them for 5 years. This legislation will encourage more people to invest in small businesses and will help give these businesses the capital they need to grow and create new jobs. The legislation also allows more small businesses an immediate tax write-off. We call this expensing for upgrades in their buildings and equipment. If they buy a building, a business, they usually have to depreciate it over a period of years. This legislation allows small businesses that make a capital expenditure, whether it is a

building or equipment, to write it off in the first year. That is a great incentive to making major investments. This kind of tax break will encourage businesses to purchase everything from new software and computers to buildings, new roofs, windows, and vehicles. At the same time, it will encourage hiring in industries that sell those products.

The bill before us fosters the next generation of entrepreneurs by temporarily doubling the tax incentive, an existing tax incentive from $5,000 to $10,000 to incentivize entrepreneurs to start a new business. We call this the startup deduction. This increase will help offset the high cost of launching a new company.

These ideas, along with many other bipartisan tax breaks in the bill, will encourage smaller employers to create jobs. It will strengthen capital investment and ultimately move the economy forward on the road to recovery.

(Mr. MERKLEY assumed the chair.)

The bill also includes what we call a Small Business Lending Fund to help our Nation's struggling small businesses succeed. Almost every week I visit businesses, small and large, in Delaware. I hear over and over again, especially from small businesses, the same concern—access to capital. The $30 billion Small Business Lending Fund in this bill addresses this concern by providing our community banks with the funds they need to increase lending to small businesses. We incentivize banks to increase their lending by lowering the dividend rate they must pay back to the Treasury as they demonstrate an increase in small business lending.

We did something similar to this earlier. We created a fund, and we essentially didn't give the money to the banks. We didn't loan the money to banks. We bought the bank's preferred stock. They had to pay us a dividend on the stock. Five percent was the dividend rate on the preferred stock we bought. If they didn't buy back the preferred stock within several years, they had to pay us a 9-percent dividend rate on the preferred stock. We infused capital into the banks, largely banks with over $10 billion in assets. For the most part, they have returned to profitability. They have repaid, bought back their preferred stock. They have paid dividends on all of it for the most part. Actually, we have exercised, on behalf of taxpayers, something called warrants which, as the stock values recover, enables taxpayers to participate in the debt and the return of profitability.

We wish to do a similar thing with banks of less than $10 billion. In this case, we buy the preferred stock. The amount of dividend they have to pay back to the Treasury depends on whether they lend the money to small businesses. If they lend the money and they use essentially this capital infusion as it is intended, they end up with almost a zero dividend rate. If they don't lend any of it, they have to pay a 9-percent dividend rate. So there is an incentive there.

Finally, we are building upon successful Small Business Administration initiatives that were part of the Recovery Act. By increasing both loan sizes and the guarantees for the Small Business Administration loans, we can help meet the credit needs of small businesses. According to a recent report by the National Small Business Association, these Recovery Act programs are working, and they are still greatly needed. Last week, the National Small Business Association announced that when the small business provisions of the stimulus package, adopted about a year and a half ago, expired at the end of May, Small Business Administration lending plummeted. In June of this year, the Small Business Administration approved only $647 million of loans to small businesses. The previous month, before this expired, it was $1.9 billion in loans. It is clear—to me at least—that the enhancements to current Small Business Administration programs in the bill are critically important and will help lenders provide loans and help small businesses create jobs in communities.

One of the things we need to do to relieve uncertainty and get us going on the right track is to eliminate uncertainty. One of the great sources of uncertainty is what we do on health care. We have done something on health care—more good than bad. The CBO tells us the actual effect on the deficit is to reduce the deficit, forecasted deficits by $120 billion over the next 10 years and by roughly another $1.2 trillion in the years after that. So not only do we have the potential of providing better health care to people who don't have it but also to do something positive on the deficit side, beginning to address the uncertainty. In terms of uncertainty, it is important for large business and for small business. The real problem for small business is to make it possible for them to access capital, to get loans, whether for plant and equipment or for working capital. The legislation we are debating this week actually does that in a variety of ways.

The Presiding Officer is somebody who has actually worked on this stuff pretty hard. I commend Senator MERKLEY and a variety of others, Senator LANDRIEU and others, for the good work they have done on this legislation, on both sides of the aisle. We ought to let this bill go. We ought to give this bill an up-or-down vote. In doing so, we will do the right thing not only for the Senate and those of us who are privileged to serve here but for the country, particularly our small businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I am impressed by the distinguished Senator from Delaware. Not only has he outlined the information in the small business legislation which we are in the process of debating, but he so eloquently expounded on what we have done in health care to respond to the second opinion of our distinguished colleague from Wyoming. The Senator from Delaware did a tremendous job of covering the health care issue and what is actually in the bill. It has to be on the record. I thank the Senator for being eloquent in that regard.

I am here to speak about the small business legislation. I must also commend the Senator from Delaware, as he covered some key points. Being a former banker myself, an individual who actually financed companies—when I was in the banking business, I financed small businesses, even startup businesses—I have a great knowledge of what it takes to make sure those businesses have the necessary capital and resources in order to survive and provide jobs across the respective communities they serve. The legislation before us is crucial to the recovery of our respective communities with this recession.

As a public servant, I have been a strong advocate for American small businesses, especially disadvantaged and minority-owned businesses, because they are the engine of the economy. Before I was a public official, I was a banker. I worked hard every day to spur investments on Main Street. I worked to make capital available for small businesses so entrepreneurs and innovators could create jobs and bring prosperity to local communities. Today, as a result of the harsh economic reality in which we are existing, many of these businesses are finding it tougher than ever to survive. Credit is largely dried up. Capital investment is difficult to come by. Even as our economy begins to move forward toward recovery, small and disadvantaged businesses continue to lag behind. I believe we need to place small businesses at the heart of our response to this crisis. More needs to be done. Passing the Small Business Lending Act would be a step in the right direction. This incentive will create jobs for struggling Americans by providing increased lending to small businesses so they can support and expand their operations.

Small businesses are in a position to create well-paying jobs and produce growth at the local level. It is time to make them a priority again. If we fail to act today, if we fail to pass the Small Business Lending Act and fall short of our commitment to America's innovators and entrepreneurs, I fear our Nation will fall into a jobless recovery, and small businesses across the country will continue to suffer the detrimental effects of this recession.

I recognize government cannot directly create jobs in the same way the private sector can but few can deny that government has an integral role in getting America back on track. Our job as public officials is to support and

promote responsible practices, implement sensible regulations, and help direct investments to the areas that need it most. Under current law, the Small Business Administration provides key support to small businesses through its 8(a) program. This program offers technical assistance, training, and contract opportunities to small businesses that meet specific criteria. I am a strong advocate of this initiative which has helped to keep small and disadvantaged businesses viable and make sure everyone has a chance to share in the economic prosperity.

Mr. President, 8(a) has made a difference in numerous communities. It has eased some of the worst effects of the crisis for those entities that are most vulnerable. Yet despite its success, this program's impact and reach has been restricted because only a small number of businesses are eligible for this kind of support. That is why I introduced an amendment during the debate that would expand the 8(a) program.

My measure would have increased the continued eligibility amount from $750,000 to $2.5 million, so more small businesses could benefit from this assistance. But, unfortunately, my amendment was not included in the final package.

While it did not make the cut this time, I hope my colleagues will join me in giving further consideration and attention to the 8(a) program in the near future. What this will do is allow those individuals who may have reached a net worth of $1.1 million or $1.2 million or $1.5 million or even $2 million to say they are still small. In this economy, if you have $2 million, people say you are rich. Well, that is not the case if you are a small businessperson. That is the reason why I am saying in order to still be able to qualify for the 8(a) program, we should increase the eligibility amount to $2.5 million, and thereby they can continue to compete and continue to have a chance to be in the small and disadvantaged minority category.

Expansion of this program would afford our small businesses the assistance they need and create jobs for Americans amid this rough economic climate.

With the Small Business Lending Act before us today, we have an opportunity to renew our investment in America's small businesses. I urge my colleagues to vote in favor of this legislation so we can foster economic growth on the local level and generate much needed jobs.

I wish to reiterate what the distinguished Senator from Delaware said in terms of how we can expand these businesses by giving tax incentives to these companies, by eliminating the capital gains tax that would come about for any transaction they would make, by allowing them to write off the depreciation for their capital purchases.

We have this legislation before us now, which we must pass before we adjourn for our summer recess, and get this legislation over to the House so the House can pass it before they adjourn, a week before we adjourn. We need to make sure we get this legislation passed.

We saw the Senator from Louisiana fight gallantly to pass the amendment to allow the banks to have $30 billion which they could put out for small businesses. That amendment had been stricken, and the Senator did not yield to that deduction from that piece of this package. She fought to get that amendment into this legislation. Now what we must do is get the 60 votes needed to pass the Small Business Lending Act so we can get about the business of saying, yes, we are concerned about Main Street as much as we are about Wall Street. When we do that, we can go back to our constituents and say we have done something that is beneficial to our communities which will help us to get this economy moving again to help those people who need it the most.

Mr. President, I see the distinguished Senator from New Hampshire on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I am pleased to join my colleague, Senator BURRIS, from Illinois, and the other Senators who have been on the floor this afternoon to speak to the Small Business Jobs Act that is pending before us today.

For weeks now, the Senate has been considering the Small Business Jobs Act. Today, I hope we will finally be able to pass this commonsense legislation that will help small employers and entrepreneurs to grow their businesses and to hire new workers.

While we have seen some signs that our economy is beginning to recover in New Hampshire, too many workers still cannot find the jobs they need to put food on the table and pay the mortgage. The best way to create those jobs is to invest in our small businesses.

Over the past 15 years, small businesses have created almost two-thirds of the new jobs in America. Small businesses are the cornerstone of New Hampshire's economy. Over 96 percent of businesses in the Granite State are small businesses with fewer than 50 employees.

But small businesses, as we all have heard, continue to feel the effects of a recession they had no hand in creating. That is why we need to pass the Small Business Jobs Act today.

This bipartisan legislation will dramatically increase lending to small businesses. It will enhance the ability of small companies to export. It will provide tax relief to so many small firms.

I am proud, as a member of the Small Business Committee, I worked with my chair, MARY LANDRIEU, who has done a terrific job on this bill, and ranking member OLYMPIA SNOWE, on provisions to enhance critical SBA programs. I am pleased to report this was a bipartisan effort.

I have come to the floor several times over the past few weeks to talk about the many important provisions in this bill—provisions that will get capital moving to small businesses again, and to provide them with some tax relief. But today I want to come to the floor to discuss another critical component of this bill, one that every Senator in this Chamber should support; that is, helping our small businesses sell their products overseas.

Exports are a great opportunity for small businesses that are looking to grow. Growing a small business is often about finding new markets for your products. Selling into foreign markets is especially important for businesses in my home State of New Hampshire.

Even in the difficult economic climate last year, one of the real bright spots in New Hampshire's economy has been exports. In 2009, New Hampshire had its second highest export year ever. But there is still a huge potential to continue to increase exporting by America's small businesses.

This chart I have in the Chamber shows the opportunity that exists for our small businesses. Only 5 percent of the world's customers live in the United States. We can see on the chart that is that very small blue portion of this pie chart. So that means 95 percent of the world's markets are outside of the United States.

But, of course, there are still significant barriers to small businesses as they try to access that remaining 95 percent of the world's population. For a small business, starting to export can be challenging. Unlike big firms, they do not have the technical capacity to identify new markets. They do not have the resources to go on trade missions, and they do not have the marketing expertise to promote their products to foreign buyers.

We can see the challenge small businesses face versus the challenge large businesses face on this pie chart. For large businesses, 42 percent of them export. For small businesses, only 1 percent of them in the country export. So 99 percent of small businesses still have the opportunity to access those international markets.

A vote for this bill is a vote to help small businesses in New Hampshire and across the country—businesses that are looking to export but do not have the resources or the expertise to do so. It is a vote to help small businesses create the jobs that will help us emerge from this recession.

I want to talk a little bit about one New Hampshire business that has been able to benefit from the kind of export assistance this bill will offer. The company is called Dartware. It is a high-tech company in West Lebanon, NH, over in the western part of our State, right across the river from Vermont. It is a pretty sophisticated business. It builds software to help improve professional networks. But even though they

are sophisticated, they still had a tough time navigating the international terrain. So Dartware went to New Hampshire's International Trade Resource Center where they found a U.S. Foreign Commercial Service specialist who could help them, along with the folks at the Trade Resource Center. The center provided Dartware with a customized international market assessment and connected the business to international buyers for their services.

As a result, Dartware now has developed partner relationships in countries such as Brazil, China, South Africa, Egypt, and Argentina—countries that are emerging markets that offer opportunities for New Hampshire and America's small businesses.

The bill that is pending before us would give more small businesses such as Dartware the opportunity to succeed in exporting.

The Small Business Jobs Act includes two bipartisan bills I cosponsored that will help more companies access critical export resources. For the past few years, Federal and State resources have dwindled, while companies such as Dartware have clamored for more of these services to help them know how to export.

The Foreign Commercial Service has not been able to replace many of their retiring officials and, as a result, the service has been severely understaffed. This legislation, the small business jobs bill, restores staffing at the Commerce Department to 2004 levels and creates a competitive grant program so that strapped State export assistance centers will have that ability to provide grants to companies. This bill passed out of the Senate Commerce Committee with broad bipartisan support.

The Small Business Jobs Act also includes bipartisan legislation which will strengthen SBA export assistance programs. These programs help small businesses get the loans they need to finance their export growth and will provide export expertise. This part of the bill passed out of the Small Business Committee by a vote of 18 to 0.

So two more provisions in the legislation pending before us that have broad bipartisan support. These commonsense measures that had strong bipartisan support in committee deserve support on the floor when we vote on this legislation. There is no reason we should not have a strong bipartisan vote today when the full Senate takes up this legislation.

I hope all of my colleagues on both sides of the aisle will join me in voting for this bill because it is going to make a difference to our small businesses, and it is going to mean they can grow, they can add jobs, and we can put people back to work in this country. I urge my colleagues to join us in voting for this legislation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AVIATION SAFETY

Mr. DORGAN. Mr. President, I have come to the floor to talk about a piece of legislation that perhaps is not on the front pages of the newspapers today but is very important in this Congress and to the American people. It is very important that we pass this legislation. We have been waiting and waiting, and we continue to wait. It is called the reauthorization of the Federal Aviation Administration bill. We have been working on this for a long time.

This is not just reauthorization for some bureaucracy; this is about safety for the American public who is flying today. Let me put up a chart that shows where the airplanes are in the skies today. I think I have a chart on that which describes the number of flights in this country. The air is literally packed with airplanes flying all across this country. The question is, How are they controlled? Ground-based radar systems are keeping track of all of these flights. This is a map that shows the airplanes that are flying in the country at a given time—very crowded skies. This FAA reauthorization bill has a lot to do with safety. The reason it is so important—I am going to talk about the safety piece first, and then I will talk about why it has been blocked and how we finally get some action on this and why I finally have had a bellyful of trying to persuade people that we ought to pass legislation that I think is critically important to save lives in this country.

Let me remind all of my colleagues about February 12 last year. February 12 of last year was the tragic crash of Colgan Air flight 3407. That crash should not have happened. That crash took the lives of 45 passengers, 2 flight attendants, 2 pilots, and 1 person on the ground. It should never, ever have happened.

The families of the victims of Colgan Air flight 3407 have consistently been to every hearing I have held on safety dealing with aviation. They have been, at every moment possible, here in the Capitol Building, office to office, door to door, saying: Pass this legislation to reauthorize the FAA, including the dramatic safety changes we propose.

They provided a chart board that shows photographs of their loved ones, those who climbed on that airplane that evening to fly from Newark to Buffalo, NY. It was a night flight on a Bombardier-8. During that flight, icing occurred on the wings.

I have read the transcript from that cockpit between the pilot and the copilot. Let me describe a couple of things we learned.

The young pilot lived in Seattle, WA, and commuted to work to Newark. She deadheaded all night long on a FedEx plane stopping in Memphis, landed in Newark—no evidence that she slept—and then she boarded an airplane to haul passengers to Buffalo, NY. That was the copilot. The copilot, I understand, earned somewhere around $20,000, $22,000 a year and had a second job in a coffee job to make ends meet. My understanding was she lived with her parents. That was the copilot. The pilot commuted from Florida. There is no evidence that the pilot slept the night before. He spent time in the crew lounge, where there is no bed. That pilot boarded the same plane. That raises all kinds of issues about fatigue and commuting—commuting all night to board an airplane to haul passengers.

When you read the transcript of what occurred in that cockpit, you also understand there were very serious issues about training—the stick pusher and the stick shaker and flying into ice and not following procedures, all of these issues.

Forty-five passengers died that night. The question is, Is there one level of safety in this country when you get on an airplane and you look in that cockpit? Is there one level of safety if you are on a large plane or carrier versus a small regional carrier? Do you have the same experience in the cockpit, the same level of training? Where have the crews come from? Did they fly all night all across the country just to get to their work station?

Well, the Colgan crash told us a lot. Here is what happened that evening. There was ice on the wings. This was the crash site near Buffalo, NY, on February 12, 2009.

Here is another photograph of the crash site. This crash should never have happened. Those victims should not have died. They should have been safely on the ground with their loved ones.

What has gone wrong here? Let me at least describe a few things that I think. One was fatigue. Clearly, that played a role. Here is a quote that NBC News ran from a pilot on a 737 jet flying to Denver, CO:

> I had been doing everything in my power to stay awake: coffee, gum, candy. But as we entered one of the most critical phases of flight, I had been up for 20 straight hours.

Fatigue. Is this someone in a working condition who is sharp, on edge, landing a plane with perhaps 150 people on board?

Here is another quote from an 18-year veteran pilot, describing the routine of commuter flights with short layovers in the middle of the night:

> Take a shower, brush your teeth, and pretend you slept.

He said that is the way it works.

Here is another quote from a pilot:

> I was bathed in sweat and scared to death.

That is an 18-year pilot describing the approach to the runway after numerous early morning commuter flights over 3 days.

Here is a photograph of a pilot crash pad. He watches a movie on his computer at a crash house in Sterling Park, VA, which is not far from here. These houses, which can have 20 to 24 occupants at a time, are designed to give flight crews from regional airlines a quiet place to sleep near their base airports. Many can't afford hotels, so they use crash houses where they pay $200 a month for a bed.

I described the young lady who was the copilot on the Colgan Air flight that crashed. She commuted from Seattle, WA to Newark to get to her duty station. There was no evidence that she had slept in a bed. It raises a lot of questions.

At hearings I held, I held up this chart to show where the Colgan pilots were commuting from flying on that particular regional airline. They were flying out of Newark. You could see where they are commuting from, such as home stations in Los Angeles, in Seattle, in Texas, and they commuted to work all the way across the country.

I describe these charts only to talk about one phase of the investigation of the Colgan crash, and that is fatigue and rest—crew rest. We have a piece of legislation that addresses a number of these issues: What is the experience of the pilot in the cockpit? How many hours must that pilot have of relevant experience and training to sit in that cockpit and haul passengers on a commercial airplane?

We addressed that and so many other critical areas of safety. That is in the FAA reauthorization bill—a piece of legislation we passed in the Senate Commerce Committee long ago. Now it is awaiting action on the floor of the Senate. Yet, we have not been able to get it done.

I want to talk a little about the importance of this legislation. No. 1, it creates jobs. It is investment in infrastructure, airport improvement funds—investing in the infrastructure of this country.

Let me describe the central elements of this bill. Airport Improvement Program. That is tens of thousands of jobs around this country.

Aviation safety. I have touched on that.

Air traffic control modernization.

A passenger bill of rights.

Small community air service.

Let me talk for a moment about the air traffic control modernization. I showed a chart with all of those airplanes in the air. Every single passenger on every one of those planes could be flying in safer conditions now if we were moving, as we should, with this bill, in modernizing the air traffic control system. Our kids carry cell phones around that have GPS capability. Those of the commercial airliners in this country are flying to ground-based radar, not GPS. They don't utilize what our kids have in their cell phones in commercial airplanes, which would allow them to fly safer routes, fly more direct routes. Modernization of the air traffic control system is long overdue, and it has a lot to do with aviation safety. It is in this bill.

This bill must get done. To not move forward on this—Europeans are, and others—and to have us fall further behind is unthinkable to me. The passenger bill of rights—we include that in this bill, and it says some very important things. The passenger bill of rights says that they are not going to be able to keep you on an airplane for 6 or 8 hours when they have trouble on the runway and you sit on the tarmac for 6 or 8 hours. Three hours. We set the conditions under the passenger bill of rights, airplanes—that is, the aircraft companies, airline companies, must comply with the rules that we have established.

This legislation provides consumer benefits for 700 million plane trips per year taken by the American people. We have heard horror stories from around this country: passengers stuck on the tarmac for 6 hours, 8 hours, bathrooms not working, out of water. The fact is, this bill will improve that and the disclosure of flight information to passengers, impose certain burdens on the airlines, and that is the right approach. All of these things are in this FAA reauthorization bill.

What is holding up the bill? Well, first and foremost, in the Senate, we passed the bill with the understanding that there is a controversy called slots and perimeter rules at Washington National Airport. When we passed it through the Senate, 93 to 0, we understood that we didn't resolve the slots and perimeter rule issue. The House has additional slots at DC National, but we didn't do anything on it. We didn't do zero. We understood that we passed the bill and would negotiate it later, and negotiations have ensued. Now we have several representations saying: I represent my area, my region, or my airport, and therefore I object.

Do you know what. It is fine to represent your interests in your region, but it is not fine to block the bill. It is not fine to block this bill. In fact, the latest discussions that have been held, with respect to slots at DC airport, are 16 additional slots—not new flights in or out of DC National Airport, but flights that would have flown within the perimeter that would now fly outside of the perimeter. I know that is lost on most people because this perimeter rule limits the number of miles you can fly from DC National Airport. This would convert flights inside the perimeter to flights outside of it—16 flights. So it is no new traffic to DC National. Those who proposed it said: We would agree that we would have the same size airplanes flying the flights.

Yet, we have massive amounts of controversy around here with people saying: Well, I am going to block this and that.

Let me say this: If you care much about safety in the skies and at long last you want to pass an FAA bill to improve safety, if you care about the airport improvement program and infrastructure and airports and runways and building the infrastructure and creating tens of thousands of jobs, and if you care about small community air services, a passenger bill of rights and having America keep up with air traffic control modernization, you can't possibly be blocking this bill.

I am not going to describe who it is, with names and so on. This is not about Democrats or Republicans, or conservatives or liberals; this is about, are we going to fail again? I have watched so many failures because people have decided they are going to block this or that. What we have had in this entire Congress is one side of the aisle blocking most everything for a long period of time. This bill happens to be bipartisan. There is no excuse, no reason to block this legislation.

It appears to me that a couple things are likely to happen. If interests that have been involved in these discussions continue to block this, this bill will fail, and the American people will be flying in skies that are less safe than they could be. We will not have made the improvements we should make. We will not make the investments and create the jobs we should create. I suppose those who block it will think they have done something meritorious for the country, but they will have injured this country's interests.

My hope is that in the coming couple of days, those who have said they are going to block this legislation will think again and understand that this place only works through compromise; it only works if we are willing to understand that everybody has different views on these things, and let's find a way to effectively compromise and pass legislation that strengthens this country.

If I sound a little irritated, I am, because I have had a belly full of the intransigence that exists in this Chamber. Nobody fights harder for their interests than I do. But I also understand, having served here long enough, that there is a need to make this place work by being willing to compromise your interests in a fair way. We have gone at this now for some weeks. It has been a long while since the Senate passed this bill. It is very close to a point where, I believe, we will not have the time to continue working on this, and what we will see is that this bill will, once again, fail, and we will extend, once again, the FAA reauthorization bill for a short time, and then until the next Congress. God bless everybody who dug their heels in and decided they could only live with what they could live with and would not compromise, but they have done no favor to this country. They can all chew on that for a while.

I hope that in the coming days, yes, families of the victims of Colgan will

perhaps have some ability to influence those who want to block this legislation. Perhaps those who are out of work and would get work with the airport improvement funds will influence them. Maybe those who care about continued air service to small communities would have some ability to influence them. Maybe those who care about the passengers bill of rights—at long last, maybe they will be persuasive.

One way or another, I hope that finally we will see if maybe there is a public spiritedness in this Chamber and also an interest in doing the right thing and pass the FAA reauthorization bill.

I understand my colleague from Kansas is here ready to speak. I will defer until later.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

RENEWABLE ENERGY STANDARD

Mr. BROWNBACK. Mr. President, I thank my colleague for yielding the floor. I invite him to stay. I want to talk about a renewable energy standard we need to have in an energy piece of legislation. I know it is something he is interested in, and has been, and it is something I am interested in. I think it is one of these commonsense approaches that you can get bipartisan support built for if you do it in a sensible fashion that doesn't raise utility rates; and that is a key issue to watch here—not to raise utility rights.

I think if we have a robust enough—but not greedy—renewable energy standard that is prudent, workable, over a period of time, where companies can work into this, we can start moving forward on renewable energy in a sound economic fashion, and we can balance our energy needs with our environmental needs and our economic demands and not raise utility rates.

That is why I was hoping that the leader, when he introduced his energy bill, would put forward a renewable energy standard. He didn't call for that. I do. If we get an energy bill on the floor—which I hope we do—I will certainly be supporting a renewable energy standard the likes of which we passed on a bipartisan basis through the Energy Committee.

I am looking forward to supporting what we put forward in the American Clean Energy Leadership Act of 2009, which was reported out of the committee on a strong bipartisan basis. There was a provision in it that called for a 15-percent renewable energy standard by 2021, and within that 15 percent was even allowed 11 percent by renewables and up to 4 percent by conservation, so there were some ways for groups and individuals to be able to work forward, building in some conservation but also renewable energy into the portfolio, such as renewable energy of wind, solar, biomass, or other means.

I have been advocating this, as has my colleague from North Dakota. It is something we have voted on recently in this body, as recently as 2005, when we looked at a 10-percent renewable energy standard. The differences in the conference prevented that from moving forward.

The amendment I would support on this bill that I hope the leader will reconsider and put forward in his base bill that he puts up on the floor is 15 percent, as I stated, by 2021. That is something that could have and would gain bipartisan support.

If we are serious about moving forward on reducing our dependency on foreign oil, from foreign sources, if we are serious about moving forward on environmental needs, this is a very sensible, pragmatic, prudent approach. It is one we can do. It is one we can accomplish. It is one that has passed this body before. We already know the votes are here to pass something like a modest renewable energy standard. That is why I am calling for this to be put forward in the leader's base bill. If not, I am supporting an amendment that would be put in this Energy bill should it come to the floor. I hope it does come to the floor. We need to address the energy needs of this country. We have a huge problem that has been going on for some time in the Gulf of Mexico. We have enormous energy needs in this country. We need to balance our energy needs with the environment and our economic abilities. We are in difficult economic shape now. We cannot put a load on the economy. We should not put any load on the economy. If we are wise and prudent about this, we can do these renewable energy standards and not put any load on the economy. I ask the leader to do that. I hope we can in moving this process forward. It is my hope that this will be included in any energy legislation that ultimately passes this body.

Mr. President, I ask my colleague from North Dakota for any comments he might have on a renewable energy portfolio in energy legislation.

Mr. DORGAN. Mr. President, if I may, I know the Senator from Kansas spoke about this issue that we worked on in the Energy Committee over a year ago. We worked together to get what is called a renewable electricity standard, some people also call it a renewable portfolio standard—through the committee process. A renewable electricity standard is a requirement that a certain percentage of electricity delivered be from renewable sources—wind, solar, and so on. I believe that it is very important to do that. I appreciate the Senator from Kansas and his position.

There is an old saying: If you don't care where you are going, you are never going to be lost. If our country does not describe the route we want to take, if we don't say here is where we want to go as a country, then wherever we find ourselves 5 and 10 years from now, that is where we are, I guess.

I believe however, that it ought to be a circumstance where we decide what our energy future looks like. I believe that we should incentivize the development of renewable energy. How do we maximize the development of wind and solar energy? By creating a renewable electricity standard that drives the development and by building the transmission that allows us to produce it in one area and move it to a load center in another area. We did that in the bill that passed the Energy Committee just over a year ago.

I fully support the notion of the Senator from Kansas that the 15-percent renewable electricity standard we created in committee ought to advanced in any energy bill. In fact, I don't know whether we will part company on this point, but I have always indicated that I support a 20-percent renewable electricity standard. I believe our country ought to push very hard to move in the direction of maximizing the capability to produce renewable energy where the wind blows and the Sun shines, and put it on the wires and move it to the load centers. That is exactly what we ought to be doing. The Senator and I sure agree on the philosophy of this issue and the need for this provision in an energy bill.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I wanted to engage my colleague from North Dakota because there is a strong base of bipartisan support to do this, and I also believe there is a strong majority community across America that supports this. Don't get it out there so wild that it starts driving up utility rates. Nobody wants to do that, and everybody is opposed to pushing up utility rates. We don't want them to go up. They cannot go up. We cannot afford for them to go up in bad economic times, and I do not want it to happen in good economic times. But if we do this in a balanced approach where we say we are going to have a modest renewable electricity standard, a modest RES that people can work with—and in the bill in committee, we actually had an 11-percent energy standard—we could do 4 of the 15 by conservation, which is prudent as well. This is something we can support.

I know this is something which we could see a strong majority of the American public support. This is balanced and it makes sense and it moves us forward. That is why I hope that if we get into this Energy bill this week—it may not happen this week or it may not happen until September—that this is a piece that is in the bill, and it is something we can get done, and the vast majority of the public, if we do it wisely and prudently, will support this.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. BROWNBACK. Yes.

Mr. DORGAN. The fact is, I happen to support limiting or capping carbon. I will support a price on carbon. I do not support cap and trade as a mechanism, as a way of doing that, or giving Wall Street the ability to trade carbon

securities. But that is another side to this.

Because we have not been able to do climate change legislation and develop a consensus on broader climate change legislation in this country, I have always felt we should bring the Energy bill to the floor which was, in fact, bipartisan and which would, in fact, do the very things we would want done to limit carbon. Take energy from the wind—that limits carbon. You develop energy without putting carbon into the air, just as an example.

I know Senator REID is trying very hard to do a couple of things. No. 1, he is trying to get this session moving on issues that matter. He has a lot of things on his plate. The Senator from Kansas knows—I am not being partisan when I say this—that a lot of things have been blocked, even motions to proceed. So the Senator from Nevada, Mr. REID, has a difficult job getting legislation to the floor and getting them moving. He has indicated he wants to bring to the floor an energy bill that includes a lot of items with which the Senator from Kansas and I would agree. We need to do something about oilspill regulation and safety and try to address those issues in the right way, and we do need to address a number of the other issues the Senator from Nevada suggested. I happen to think that using natural gas for long-haul vehicles on the interstate roadways makes a lot of sense. He has proposed a number of items, including electric vehicles. The bill I introduced, along with my colleagues, Senator ALEXANDER and Senator MERKLEY, that we passed through the Energy Committee last week, begins incentivizing and moving toward an electric vehicle fleet. All of those things are good. I support that, and I commend the Senator from Nevada for doing that. To the extent we can, if we can find ways to add other things that have a broad bipartisan consensus, that makes a lot of sense to me. I think that is what the Senator from Kansas is saying.

In order for a renewable electricity standard to be added, it would take 60 votes because things just take 60 votes around here. I went to a small school, and I thought a majority was just a majority, but it is not these days. But if we have the 60 votes—and I think there is some evidence that may exist—then adding a renewable electricity standard will substantially improve, I believe, the potential to pass an energy bill that would matter to America.

I want to say quickly that I understand Senator REID is trying very hard to get something done, to get it up, get it passed, and get it done. I commend him for that. I do not want to be critical at all. But I commend the Senator from Kansas as well because he and I agree: If we can add a renewable electricity standard to this legislation, we will advance our country's energy interests in a very significant way.

Mr. BROWNBACK. Mr. President, I thank my colleague.

I yield the floor.

Mr. DORGAN. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I wish to share a few thoughts on the nomination of Elena Kagan to the Supreme Court. I will share some other thoughts as we go along, and I will be producing for my colleagues a summary of some of the concerns I have about the nomination that would explain why I and a number of other Senators voted against this nomination in committee and why I think that calls for our colleagues to vote against the nomination on the floor of the Senate.

This nominee has the least experience of any nominee in the last 50 years, perhaps longer than that, having practiced law only about 2 years, right out of law school, with a large law firm, never having tried a case or argued a case before a jury of any kind, and spent 5 years in the Clinton White House, spent time teaching and being active politically. Those are issues that I think go to the basic qualities that you look for in a nomination. She had 14 months as the Solicitor General of the United States, and that is a legitimate legal job, but as I will point out, she didn't perform very well in that job and made some serious errors that I think reflect a weakness in her judicial philosophy.

So while there is no sustained legal practice that gives us a direct view of her judicial philosophy, other things do indicate it. There is plenty of evidence that I think will show this nominee is not committed to faithfully following the law. The Constitution's words say we ''do ordain and establish this Constitution for the United States,'' not some other constitution—not a European constitution, not a constitution as viewed by somebody in Argentina or France or wherever but our Constitution, passed by real Americans through the process that calls upon American input to pass that Constitution. Judges take an oath to be faithful to our Constitution. They take an oath to serve under the Constitution and laws of the United States.

So I think the evidence will show that this nominee believes judges have powers that go beyond what a judge has. This is what we have taken to calling an activist judge—a judge who believes they can advance the law, further the law, bend the law; that the Constitution is not plain words or a contract with the American people but a living document, which means they can make it grow into what they would like it to be; that they can set policy from the bench. That is not law, that is politics. Judges are required to adhere to the law. This is the great American principle that we are taught from elementary school on.

This nominee, pretty clearly, is a legal progressive and acknowledges that in her own testimony. When I asked her if she was, she didn't acknowledge it to me. But later, when she was asked again about it, she acknowledged to Senator LINDSEY GRAHAM that she was. That is what liberals have taken to calling themselves today—progressives—apparently thinking that is more popular than calling themselves liberals. I don't know why they have taken to doing that, but progressivism has a history in this country, and I think the people who call themselves legal progressives today are indeed in the tradition of progressivism that was rejected in the early part of the 20th Century by the American people.

President Obama is a legal progressive, I am convinced. He is a lawyer, a good friend, and somebody we all liked when he was in the Senate. But he has a view of the law that I think is a progressive view. He seeks, he says, to advance a ''broader vision of what America should be,'' and that is what judges should do. I am not in agreement with that. I don't think judges have that responsibility. They have never been given that responsibility. Their responsibility is to objectively decide discrete cases before them.

Some have complained that Justice Roberts somehow was an automaton by declaring that a judge should be a neutral umpire—just call the balls and strikes; that he can't take sides in the game. I think that is a very wonderful metaphor for what a judge should be—a neutral umpire.

Judges cannot take sides in the game. That is not what they are paid to do. That is not what they are empowered to do, not in the American legal system. Maybe somewhere else but not in our system. The American people understand that clearly. They are not happy with judges who legislate from the bench, who think they know better, who consult some European somewhere, with very little accompanying scientific data, to say the world has advanced and evolved and the Constitution has grown and is alive and read new words into it that were not in there before, and we can find those words and we can have a broader vision for what America should be.

I do not think that is law. It is not law, and I do not think the American people want that kind of judge.

I do not believe in this nominee's slight differences of gradations in judicial philosophy. I do not think it is just a little bit more activist and it is a little bit more advanced law philosophy, and somebody else does not and there is not much difference. I think there is a very serious difference, and it is a question of where the American people allow power to reside—power over themselves.

They can vote us out of office. I suspect people will be voted out of office this November. People are not happy with us, I can tell you that. Polling numbers show Congress is at the bottom of popularity more than it has ever been—11 percent or something. The question is, Who is that 11 percent who is happy with this crowd? Where are they? I have not met any.

I would say the American people are not enamored with the idea that somehow, when a person puts on that robe they have been anointed with greater wisdom than if they had to run for office and answer to them. If you want to be a politician, run as a politician. Don't go for it on the bench.

I think the President has an incorrect view of that, frankly, a very seriously defective view of that. In a speech in the Senate just a few years ago when he was a young new Senator, he opposed now Chief Justice John Roberts, one of the finest nominees ever to come before this Senate. What a fabulous person he was. How magnificently did he testify and what a good background he had. He was recognized as a premier appellate lawyer in America and argued 50 cases, I believe, before the Supreme Court—more than almost anybody, certainly more than anybody his age—and demonstrated the kind of skill you look for in someone who would sit on our Nation's Highest Court.

President Obama voted against him. He said he thought that in truly difficult cases Judge John Roberts would rely on precedent and try to follow the law. He said that you can't rely on precedent or ''rules of statutory or constitutional construction.'' Instead, he argued that judges must base their rulings on ''one's deepest values, one's core concerns, one's broader perspectives on how the world works and the depth and breadth of one's empathy.'' That is what President Obama said a judge should do.

I would assert that is contrary to the American heritage of law. That is not law. If you make decisions based on your deepest values—you mean the judge's deepest values? His core concerns? One's broader perspectives on how the world works and the depth and breadth of one's empathy? That is what a judge should do? Not in the U.S. order of jurisprudence, not the way I understand it, and I do not think it is the way the American people understand it either.

In a speech to Planned Parenthood, President Obama said he hoped judges would reach decisions on ''their broader vision of what America should be.''

His nomination of Ms. Kagan indicates that he believes she fits that bill. If we look at her record and speeches and background, I think it is fair to conclude she does. In a Law Review article she once declared that the Court primarily exists to look out for ''the despised and the disadvantaged.''

I think the Court is required to do justice. The oath a judge takes says a judge should do equal justice to the poor and the rich.

In another Law Review article, Ms. Kagan said, dealing with confirmation—actually the title of it was ''Confirmation Messes, Old and New.'' She quoted Stephen Carter's book, ''The Confirmation Mess'' with approval, writing:

> In every exercise of interpretive judgment there comes a crucial moment when the judge's own experience and values become the most important data.

Well, I don't think so. What do you mean the judge's own values become the most important data? You mean we are ceding to the judge their personal values instead of faithfully following the law and the facts as written?

In her Oxford thesis she wrote:

> Judges will often try to mold and steer the law in order to promote certain ethical values and achieve certain social ends. Such activity is not necessarily wrong or invalid. The law, after all, is a human instrument, an instrument designed to meet men's needs.

The law is a set of commands from the government that have to be consistent with our Constitution. If they are, they should be followed, if they have been duly enacted by Congress. The American people can elect a new Congress and change those laws if they desire, but until they do so they remain the law and I do not think judges are supposed to be steering the law to promote certain ethical values.

Let me ask you, whose values are they? Whose ethical values are they? The judge's? Is that what we put them on the bench for, to be able to steer the law to promote their ethical values?

Some people wrongly say the Constitution is defined by the nine Justices on the Supreme Court. Not so, really. If we want to be cynical about it, if they are not faithful to the law, five Justices can redefine the Constitution.

Recently, four Justices voted to basically eviscerate the second amendment, saying the constitutional right to keep and bear arms was not a personal right and that the Constitution did not apply to the States and counties and cities; and in effect a city, Chicago, could have basically eliminated all guns in their city, and it would not have violated the constitutional guarantee of the right to keep and bear arms.

They just wrote it out of the Constitution, I guess—and they cited foreign law about it.

We know other cultures are not as accepting of people having guns as in the American culture. It is just different. What does foreign culture have to do with ours? This is the kind of thing we are talking about. It played out in real cases and creates a real abuse.

She goes on to say that judges will often try to mold and achieve ''certain social ends.'' Such activity, she says, ''is not necessarily wrong or invalid.''

I think it is wrong or invalid.

Am I being unfair to the nominee, Ms. Kagan? I don't think so. When asked about Ms. Kagan's record, a person in a very good position to know, Gregg Craig, former counsel to President Obama in the first year or two of the administration, who knows Ms. Kagan and who reviewed her when she was considered, apparently, for the first Sotomayor appointment, said:

> She is largely a progressive in the mold of Obama himself.

I have come to believe that is exactly right. I mean, I just believe that is right. I think the President looked around the country to pick somebody young, who would serve a long time. She is 50 years old. If she serves as long as Justice Stevens whom she is replacing, she will serve 38 years. It is a lifetime appointment. It could be longer. So Mr. GREGG Craig said ''she is largely a progressive in the mold of Obama himself.''

The President was a community activist and a lawyer. He has taught some constitutional law—I am sure he is a good teacher. But if he is teaching this kind of philosophy I think it is not good, sound, judicial philosophy, and his approach I don't think is good.

I believe he looked for somebody who shared his views. As 59 Democratic Senators, he expects them to, lemming-like, go down the line and vote for whomever he puts up there, so he has put up somebody he thinks follows his views.

A second person who has been in a good position to know Ms. Kagan is Vice President BIDEN's chief of staff, Ron Klain, who worked in the Clinton White House closely with Ms. Kagan when she spent 5 years in the White House doing mostly policy work, as she said. This is what Mr. Klain, an experienced lawyer who has been around Washington a long time, said about her:

> Elena is clearly a legal progressive. I think Elena is someone who comes from the progressive side of the spectrum. She clerked for Judge Mikva, clerked for Justice Marshall, worked in the Clinton administration, worked in the Obama administration. I don't think there is any mystery to the fact that she is, as I said, more of the progressive mold than not.

Let's just take a note there, when she graduated from law school she clerked for Judge Mikva. She is a very smart individual, a very liberal individual. I believe she clearly would be considered a judge of the activist variety. Then she clerked for Justice Marshall, a great, famous Justice on the U.S. Supreme Court but probably considered the most activist member ever to sit on the Supreme Court of the United States. That is whom she worked for.

She took a leave, I think it was a leave from her teaching position, to come to the Senate to work on the Judiciary Committee to help confirm to the Supreme Court of the United States the chief counsel for the American Civil Liberties Union, Ruth Bader Ginsburg. That is the kind of judge she has admired and worked for.

She made a speech in which she called Justice Barak of Israel, who has

been called the most activist judge in the world, her judicial hero.

I think the American people know the role of a judge. They know a judge is not empowered to legislate. They know a judge is not empowered to set policy. They know a judge is not empowered to redefine the meaning of words in the Constitution or some statute to make it say what they would like it to say in a given case that is before them. They know that is an abuse of power.

It is a violation of oath, and the American people care about it. When I talk to people, when I am in townhall meetings, people invariably ask about activist judges who are legislating from the bench. They know it is against the American view of law because these judges are unaccountable to the public. They have a lifetime appointment. They cannot be removed if you disagree with their approach. So for them to advance an ideological, philosophical social agenda from the bench frustrates democracy in a very real way, and the American people understand it.

I do not think the American people are going to hold harmless those who vote to impose a legal progressive activist legislator from the bench upon them. So I am asking my colleagues to look at this nomination carefully. Do not be a rubberstamp for the President. I am talking primarily to my Democratic colleagues now. It is your vote. It is your responsibility to make sure your constituents do not wake next year, next year, next year, and find some judge redefining the Constitution to make it say something it was never intended to say.

So do not be a lemming. Review this nomination. Be careful about it because I am afraid we have a dangerous, progressive, political-type nominee who is going to be before us. So I would call on my Democratic leadership in the Senate, let's be sure we have a good time for debate, let's not curtail it. I call on all my colleagues to come to the floor and express their views, but, most important, to ask themselves, is this nominee the kind of nominee you who will serve on the Federal bench for the next 30, 40 years who will subordinate herself and serve ''under the Constitution and laws of the United States'' as that oath says or will she feel she is just a little bit above it, and has a right to advance a social agenda or some other broader vision for what America should be that somehow Congress did not see fit to enact, the people's branch did not see fit to enact, so she should just do it anyway because Congress did not act. We should act. That is not a justification for judicial activism.

When Congress does not act, it does not act. That is a decision not to act. Courts are not empowered to set about to fix all that if they are not happy with it.

We are heading into an important period for the Congress, for the Senate. We will be looking at this nomination. The nominee was a skillful and articulate one and had a good sense of humor and handled herself in many ways well. But I think, as you hear from a number of people who studied her testimony, that it had a bit too much spin and not enough law, not enough clarity, not enough intellectual honesty to meet the high standards we should look for in a Supreme Court nominee.

We ought to be looking for the best of the best, a lawyer's lawyer, not a political lawyer, a lawyer's lawyer or a proven judge. The fact that she is not a judge is not disqualifying. But I would expect, if you are not a judge, you ought to be proven as a lawyer in the real world of law practice. This nominee simply is not. She is a political lawyer, and I do not believe she should be elevated to the Supreme Court of the United States.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Madam President, I rise in strong support of the amendment offered by my good friend from Colorado, Senator MARK UDALL. Credit unions across the country are currently restricted in the amount of lending they can provide to their members for business purposes. The Udall amendment, which I proudly cosponsor, will raise that limit. Congress should be focused like a laser on bringing unemployment down and getting the economy humming on all cylinders again. The bill before us today is part of that ongoing effort. It is a much needed, targeted bill that will help small business expand and hire.

There are many worthy ideas and important programs in the bill, from bonus depreciation to increasing the loan limits on SBA's flagship programs to providing grants to help States expand innovative small business initiatives. But a core mission of this bill was always to jump-start lending.

When I travel around New York and talk to business owners about creating jobs, the No. 1 thing they bring up is their inability to get access to credit. I believe the small business lending fund, which I vociferously supported and which the Senate approved last week, will prove to be a shot in the arm for small business, greatly increasing access to credit. I thank my colleague from Louisiana, Senator LANDRIEU, and my colleague from Florida, Senator LEMIEUX, my colleague from Washington State, Senator CANTWELL, and others, Senator SHAHEEN, for their efforts to reinstate this important fund. But we can't stop there.

Credit unions are an important source of credit for small businesses from coast to coast. They should not be neglected as we seek to improve the economy. When this idea was originally proposed, some concerns were raised about the safety and soundness of credit unions, their members, and the credit unions' insurance deposit fund.

My office worked with Senator UDALL and the Treasury Department to come up with a plan that would address those concerns. First, the cap is only raised for credit unions that meet strict eligibility criteria. To qualify, credit unions must be well capitalized, demonstrate sound underwriting and servicing based on historical performance, have strong management and policies to manage increased lending, and be approved by their regulator for the higher cap.

They must also be at or above 80 percent of their current cap, with 5 or more years of experience lending to member businesses. This means only credit unions with significant experience lending to small businesses will have their cap raised, and it is targeted at those credit unions most likely to expand their lending because they are at or near the existing cap.

I commend Mr. UDALL, the Senator from Colorado, for taking the lead on this novel approach. His amendment is a sensible compromise that successfully addresses the concerns that were raised.

Based on conservative estimates, this amendment will lead directly to over $10 billion in new lending and will create over 120,000 jobs. In my home State of New York, it will create over $750 million in new lending and create over 8,000 jobs. It does it all with no cost to the taxpayer. I repeat, the amendment does not add a dime to the deficit and will have a positive impact on GDP.

Certainly, this amendment is not a cure-all for our economy. But with small businesses starved for credit, it seems obvious to me we should be trying everything we can to increase lending to small businesses. Simply put, this amendment is a no-brainer. I urge my colleagues to support the amendment offered by my friend from Colorado.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

Ms. KLOBUCHAR. Mr. President, I come to the floor today in support of the small business jobs bill, which is moving through the Senate.

I first would like to say how much I appreciate Senator LANDRIEU of Louisiana and her leadership on this bill, as well as the members of the Small Business Committee, who have worked

incredibly hard to bring this bill to the point it is ready to get voted on.

When we first began discussing how we could help our small businesses deal with the issues they face in this difficult economy, I spent a lot of time going around my State and actually talking to those who run small businesses, who work in small businesses, to get some ideas of what would really work. That is when I heard time and time again about how they desperately need capital.

In fact, according to the National Federation of Independent Business, 45 percent of small businesses in America say adequate access to capital is their No. 1 problem. I think this is summed up well in a letter I got from a constituent of mine. He founded his first real estate company over 20 years ago, and when the market went south, he did not just tighten the hatches, he actually invested his savings in a new home staging business to help people get their homes ready to be put on the market.

Wile his new business is profitable, he still cannot get credit. In the letter to me he said:

I have approached over 10 banks and guaranteed a loan using my building with a free and clear title, and have been turned down by every bank. The answer to growing the economy and creating jobs is getting the banks to lend to low risk entrepreneurs like me.

The great thing is, our community banks agree.

Last week on the Senate floor, I read a letter I received from Harry Wahlquist of Star Bank in Bertha, MN. As you can imagine, Bertha is not exactly a majority metropolis. Bertha, MN, is not New York City. I just want to read it again because I think it drives home the point that there is broad consensus that this bill is what we need. In this letter, the banker from Bertha said this:

I am a banker and need capital to continue serving my nine Minnesota towns. Please pass the small business lending bill now. You gave money to Wall Street. How about Main Street in Minnesota?

That is what this bill will do. It will help Main Street. It does it with more than a number of provisions to expand access to credit. It provides for a 100-percent exclusion on capital gains taxes on small business investments made in 2009 and 2010. It increases the maximum deduction for business start-up expenses to help entrepreneurs get their businesses off the ground. It allows businesses of all sizes to write off more of their investments in property and equipment to help them grow.

Provisions like these are why this bill has such broad support. Whether it is the Chamber of Commerce or the Independent Community Bankers of America, they want us to work together to pass this bill.

We have gotten this economy off the cliff. We worked with our banks and our financial institutions 2 years ago. We also worked with the stimulus bill, with the Recovery Act. But we know the answer cannot just be government jobs. We know that. What we are looking at is how do we work with small businesses that create 65 percent of the jobs in this country? How do we work with the private sector to create jobs?

Another reason we need this bill is that it helps small businesses increase demand for their products and services. At a time of sluggish consumer spending, we need to be sure all American businesses—both big and small—have a chance to reach new customers abroad because when our companies are able to unlock new markets, they are also able to create new jobs.

Currently, the United States derives the smallest percentage of our GDP from exports compared to other major economies—the smallest percentage when we look at other economies across the world. As people in China, in India, and other countries gain more purchasing power, there is great potential for exports in this country because the people in these countries, in China and India, as they are gaining purchasing power, will become our potential customers.

More exports will mean more business, more jobs, and more growth for the American economy. So you can finally go in the store, look at the best good for the best price, and you can turn it over and it says ''Made in the USA.'' You can see that good on the shelves in China, and you can see it in India.

First and most obviously, exports allow a company to increase its sales and grow its business. Second, a diversified base of customers helps a business weather the economic ups and downs.

Currently, less than 1 percent of all American businesses export overseas. Of those that do, nearly 60 percent sell their products to only one foreign country, typically Canada or Mexico.

With 95 percent of potential customers outside our borders, and with the purchasing power they have increasing, it is clear the opportunities that lay in exporting for our businesses, large and small, are there.

But for many businesses, especially the small and medium-sized ones, the world looks like one of those ancient maps that contains only the outlines of the continent and a few coastline features, but the rest of it is a blank space of vast, unknown, and unexplored territory.

But do you know what. Thirty percent of our small and medium-sized businesses say they would like to export if they knew how, if they had the connections. In many situations, our small and medium-sized businesses have the products. They have the services. They simply cannot deal with the complexity of the international markets.

The overwhelming majority of businesses, even those that want to export, do not know about the export promotion services offered by our Federal agencies, and they do not know where to begin in order to make use of these services.

To help blunt the learning curve for these businesses, Senator LEMIEUX and I introduced legislation, which is included in this small business bill, to make sure companies have the capital and tools not only to continue exporting but to expand their reach to those 95 percent of customers who are located outside the borders of the United States.

If we really want to get out of this economic slump, we have to look outside our borders. We have to look at the customers across the world.

First of all, this bill increases the activities and staffing of the Department of Commerce U.S. and Foreign Commercial Service Officers in carrying out their mission.

Secondly, it expands the Rural Export Initiative, which helps rural businesses develop international opportunities. Every $1 invested creates $213 in rural exports. That is a return on investment. It does so by helping businesses, to prepare them for profitable growth in global markets. It focuses on locating and targeting new markets, the mechanics of exporting, including shipping, documentation, and financing.

My State is now seventh in the country for Fortune 500 companies. But these companies did not start big. Medtronic started in a garage. 3M started as a sandpaper company in Two Harbors, MN. Target started as a dry goods store in the Nicollet Mall in Minneapolis, and they grew and they grew and they grew and a lot of how they grew was exporting their products, building new stores across the world, sending medical devices to places such as China and India.

Well, do you know what. It is a lot easier for big companies to do it because they have the staff to do it. It is a lot harder for small and medium-sized companies.

I saw success in our State, a little company in southern Minnesota, near Austin, MN, Akkerman Inc., named after Darryl Akkerman, who is there now—the son of the owner. He has been named ''the trenchless digger of the year'' in the United States. He has a product, and it is a big one. He puts big steel piping underground and pushes the piping through to do trenchless digging. Guess what. Countries such as China and India that have a lot of people on the surface of their land, they do not want to dig up big trenches. They want to do trenchless digging. In the middle of a cornfield he has grown from a few dozen employees to 77 employees, all because of exports.

Mattracks, the moose capital of Minnesota, Karlstad, MN, has grown from 5 employees to 50 employees simply by driving to Fargo, ND, and meeting with a woman named Heather who is with the Foreign Commercial Service Department, and finding out what potential customers they had from Turkey to Kazakhstan.

That is what we are talking about, exports. I am so proud the small business bill includes some major provisions, the bill Senator LEMIEUX and I introduced in Commerce. We got it through the committee, and it is now on the small business bill. It is going to make a world of difference so small businesses can access a world of opportunity.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MENENDEZ. Mr. President, I come to the floor to strongly support the legislation before the Senate on behalf of small businesses in this country. They are the greatest generators of jobs in the country. We hear that so often from our colleagues on the other side of the aisle. This is something on which we agree. They are the greatest generators of jobs in the country. So when we are trying to get people back to work, let's help them help us collectively in putting more Americans back to work. That is what this legislation is all about.

We have talked a lot about protecting Main Street, and now this bill gives us the opportunity to do exactly that. It gives communities the guarantees they need to get lending started again, to put money into our engines of job growth, and all without any pay-go implications. That is a good bill.

I wish to thank our distinguished colleague from Louisiana, Senator LANDRIEU, the chair of the Small Business Committee, for her hard work in putting this important legislation together, as well as the ranking member of the committee, Senator SNOWE, for her work on the bill and particularly her past work with me on community development financial institutions or what we commonly call CDFIs. I am very grateful to Senator LANDRIEU, the chair, for including an important CDFI component in the bill before us.

Let me take a moment to talk about how this is an opportunity to have direct and immediate opportunities to help jump-start job growth.

It invests directly in small businesses and local communities by supporting community development financial institutions, or CDFIs, and based on what we know from historic performance—not because we are guessing but from historic performance—the provision I authored will create approximately 40,000 new jobs by authorizing the government to guarantee bonds issued by qualified CDFIs for community and economic development loans. Best of all, again, there are no pay-to implications.

As their name implies, the primary mission of community development financial institutions is to foster economic and community development in underserved areas. They have a proven track record of job creation and are arguably the most effective way to infuse capital in underserved areas for community and economic development.

CDFIs leverage public and private dollars to support economic development projects, such as job training clinics and startup loans for small businesses in areas full of potential but desperate for development.

CDFIs have been hit hard by the recession because they have had to rely on big banks for capital. We know and have seen that capital is neither affordable nor accessible and, to be honest with you, not forthcoming.

I am proud to have had bipartisan support on this provision that is included in the bill. Again, I thank Senator LANDRIEU for including it. I thank Senator SNOWE for cosponsoring it, along with Senators JOHNSON, LEAHY, and SCHUMER.

The idea is simple: If big banks don't care about lending to small businesses and communities in need of capital, then we should empower the very organizations that do care, that make it their mission every day to rebuild Main Street across this country, and that have a proven record of achievement. As I said earlier, all the calculations are based upon their historic performance, and this provision alone, within this bill, could create 40,000 new jobs.

I don't understand how our colleagues on the other side of the aisle can go back home to their States, looking at high unemployment, and rail about the realities that unemployment continues to be high and then be here in Washington stopping the very essence of what could create the jobs to reduce those unemployment levels, put people back to work, and give them the dignity of having a job that can help sustain their families and realize their hopes and dreams and aspirations. I don't get it. But that is where we seem to be. We seem to be where everything has a political equation, which is to ultimately have this President and this Congress fail, and somehow that is the road to electoral victory.

If you were just a political tactician, maybe that would make sense. The problem is, it is not about this President or this Congress failing; it is about failing the country at one of its most critical junctures in history. I hope we can see some support for this legislation.

Finally, I have often heard my colleagues talk about the home building industry. Well, I have an amendment that is out there, and I believe we should be supporting small businesses regardless of what industry they are in. The home building industry has been especially hit hard by this recession, resulting in the loss of hundreds of thousands of the middle-class, blue-collar jobs this country was built on and that communities were built on. Encouraging community banks to fund the construction of housing would not only put many of our unemployed construction workers back on the payroll, it will help revitalize the housing market, which is one of the root causes of this recession in the first place. But it would be nice to have some Republican support, to have that provision included, and to ultimately help us pass the bill, so we can get people back to work.

I hope the Republicans will join in this effort to ensure that all small businesses share in the benefits of this valuable program and this legislation. If we do that, this will be a good downpayment on getting more people back to work.

I don't know, again, how our colleagues seem to be able to go back home and rail about where are the jobs and then be here as the job killers. That is what they seem to be doing all the time—voting no, opposing process, so the creation of jobs is not achieved, so that, in fact, we can find ourselves in a situation in which the American people who are looking to this Senate to help create the circumstances in this country and the economic underpinnings to drive the private sector and create the jobs that they can work in, which will give them gainful employment and help them realize their hopes, dreams and aspirations and, therefore, have money in the economy to spend for the challenges they have and then further enhance the ripple effect of that, which will create more jobs. That is what this is about. It is about the private sector having the opportunities, but the private sector that creates the greatest rates of growth for job opportunities is small business.

I hope our colleagues on the other side of the aisle can find their way to finally come together with us on this specific piece of legislation to create jobs for our families and put America back to work.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I know we are awaiting the arrival of the majority leader on the floor, but I wish to say a few words as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. WHITEHOUSE. Mr. President, almost every family in America has experienced the pain of a loved one who has been diagnosed with cancer. Today, I want to tell the story of the Grimes family from West Greenwich, RI.

According to the Rhode Island Department of Health, nearly 4 in every 10 Rhode Islanders will develop cancer sometime during their life. In a State as small as ours, this means almost everyone has a friend or a family member who is affected by this disease. For those of us who have been touched by cancer, directly or indirectly, those are memorable emotions. In my family, both my mother and father died of cancer.

Survival rates have greatly increased for many forms of cancer, thanks to new technology. But one form of cancer has not seen the same progress, and that is pancreatic cancer. Janet Grimes recently wrote to me about her mother Muriel who was diagnosed with pancreatic cancer this past April. Currently pancreatic cancer patients have about a 6-percent chance of living more than 5 years and about 75 percent die within the first year. These are dismal numbers.

Janet has watched this cancer deeply affect her mother's quality of life. Janet wrote me that her 82-year-old mother was active, sharp, vivacious, and living in her own home in North Carolina until this disease struck. Since then, Janet has had to move her mother to Rhode Island to care for her, taking a leave of absence from her work. In the past few months, her mother has lost 25 pounds, is frequently nauseated, and needs constant care. Janet is seeing all too clearly how devastating this disease can be. As I speak, it appears our thoughts and prayers need very much to be with the Grimes family.

Janet has authorized me to speak about what is happening in her family because she is concerned about pancreatic cancer research, that it suffers from a lack both of funding and of institutional focus, constituting less than 2 percent of the National Cancer Institute's research funding. According to the American Cancer Society, pancreatic cancer remains the fourth leading cause of cancer death overall. In fact, they estimate that in 2010, more than 43,000 people in the United States will be diagnosed with this disease, and nearly 37,000 will die.

We may not yet be able to cure this terrible disease, but there are important steps we in Congress can take. I have introduced the Pancreatic Cancer Research and Education Act to help address this funding and research gap. It is a bipartisan bill cosponsored by 20 colleagues, including 4 Republicans. It makes vital investments in research into new treatments and represents a strong Federal commitment to fight back against pancreatic cancer.

Specifically, this bill directs the Secretary of Health and Human Services to design and implement an initiative to coordinate and promote pancreatic cancer research and increase physician and public awareness of the disease. It creates an interdisciplinary committee to guide pancreatic research activities, develop an annual strategic plan, and make recommendations regarding the prioritization and award of NIH grants for pancreatic cancer research. Finally, it authorizes an NIH grant program for research institutions to develop innovative compounds or technologies for prevention, early detection, or treatment with cancers with 5-year survival rates of less than 50 percent. And, of course, pancreatic cancer is well less than 50 percent.

It authorizes the Secretary of Health and Human Services to designate two centers of research excellence focusing on pancreatic cancer research.

As I said, our thoughts and prayers this evening need to be with the Grimes family. Their story, however, is just one of many that my office has received calling for this much needed investment.

For these families and for others who will face the same dread diagnosis, we need to keep working toward advancing pancreatic research and awareness. I hope my colleagues will join me in support of this legislation.

Mr. President, I rise to speak about an important provision included in the Small Business Jobs Act that will significantly reduce fraud, abuse and waste of taxpayer dollars in Medicare. I commend the Senator from Florida, Mr. LEMIEUX, who introduced the idea earlier this year. I am a cosponsor of that legislation, and he and I have worked on it together with Senator BAUCUS. I am gratified that my colleagues have voted to include it in this bill.

Neither the public nor private sectors have done enough to detect and prevent health care fraud. The National Health Care Anti-Fraud Association estimates that private insurers and government health care programs lose at least $60 billion annually to fraud. In 2008, HHS estimated a 3.6 percent improper payment rate in Medicare fee for service, totaling $10.4 billion, and 10.6 percent rate in Medicare Advantage, or $6.8 billion. These funds should be used to provide health benefits for seniors but are squandered on criminals instead.

The Departments of Justice and Health and Human Services have taken important steps to attack the problem, creating a joint task force on health care fraud and a specialized unit—the Health Care Fraud Prevention and Enforcement Action Team—to prosecute fraud and abuse. But in a program as large and complex as Medicare, these efforts are too often hindered by technical blind spots. We can only pursue those offenders we can detect, and the volume and speed of Medicare reimbursement data too often overwhelms our ability to catch wrongdoers.

The fraud prevention provisions in this bill represent a paradigm shift in fraud detection and prevention, moving away from the ''pay and chase'' model to an environment in which fraudulent claims can be flagged and investigated before taxpayer funds are spent. The bill requires Medicare to deploy the most advanced technology at our disposal predictive modeling systems currently used in the credit card and banking industries to sift the chaff from the wheat, so to speak.

These systems can analyze significant volumes of data and identify patterns of behavior by certain providers as presenting a high risk of fraud. These claims can then be flagged for further investigation and denied if fraudulent.

In the program's first year, the system will be rolled out in 10 States that have the highest levels of waste, fraud and abuse. Ten more States will be added in the second year. The Department's inspector general will report on the effectiveness of the program at the end of each of these years. If such reports demonstrate to the Secretary's satisfaction that it saves taxpayer funds and operates correctly, the system will be expanded to Medicare claims nationwide.

We must marshal our best technical know-how to defeat the cheats and crooks that swindle the taxpayers and Medicare beneficiaries. This bill starts us down that road, and I applaud my colleagues for including it.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, on Thursday night, we had a successful vote on the small business jobs bill. It was an amendment that had been worked on for more than a week by Senator LANDRIEU and many others, including Members on the other side of the aisle. We were able to get the votes to pass the amendment—60 votes on it. Now we are back on the bill.

I was told by the Republicans who voted with us on that amendment that it was appropriate before we moved to cloture that there be amendments by the Republicans on the legislation. I conferred with Senator LANDRIEU and, because Senator BAUCUS of the Finance Committee had to provide some of the money for some of the things we did, I conferred with him.

We were told that there were three amendments they wanted to have: a Hatch amendment, one by Senator GRASSLEY, and one by the Senator from Nebraska, Mr. JOHANNS. We agreed with those amendments.

As happens around here and has for many years, when someone offers an amendment, it is very traditional to have an amendment opposite that, a so-called side-by-side amendment. I do not know what could be more fair. We have agreed to their amendments, that we would have votes on them. Our amendments are within the same subject matter of their amendments. I cannot understand why we cannot move forward in good faith on this legislation.

Both parties claim they are friends of small business. This bill gives Members of both parties an opportunity to prove that.

This bill expands access to credit for small businesses across our entire

country, cuts taxes for small businesses across our entire country, and expands both domestic and foreign markets for small businesses.

We spent the last several weeks working with Members of both parties to pull this bill together and bring us to the point we are today—on the verge of final passage. My friends on the other side of the aisle said the only thing standing between us and their support for final passage is giving them an opportunity to vote on some of their amendments.

Last week, they requested we give them votes on three amendments. I repeat, a Grassley amendment on a biodiesel tax credit; a Hatch amendment on a research and development tax credit; and a Johanns amendment on repeal of the corporate reporting requirement in the health care bill. I do not know what could be more fair than saying yes.

I am going to propound a unanimous consent request that would give the Republicans votes on all three of their amendments, with a vote on a Democratic alternative on each one of them.

In addition, I will ask for a vote on a Democratic education jobs amendment and, of course, Republicans would have an opportunity to offer an alternative to that amendment. If they truly are friends of small business, if they meant what they said last week, the Republicans should accept this request because we are, in effect, saying yes, and we would then be on a path toward completing this bill.

The only alternative we would have then, which would be disappointing for I think most everyone, is we would have, by virtue of the rules, a cloture vote sometime in the morning. I hope that is not necessary.

Mr. President, I ask unanimous consent that the pending motion to commit be withdrawn; that all pending amendments be withdrawn, except amendment No. 4519; and that the following amendments be the only amendments in order to amendment No. 4519, with no motions to commit or motions to suspend the rules are in order during the pendency of H.R. 5297; that all amendments included in this agreement be subject to an affirmative 60-vote threshold; and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid on the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted on first in any sequence of votes; further, that debate on any amendment included in the agreement be limited to 60 minutes each, with all time divided and controlled in the usual form:

Baucus amendment regarding information reporting provisions health care as a side-by-side to Johanns amendment No. 1099 reporting amendment; Johanns amendment No. 1099 which is on reporting; Murray-Harkin amendment regarding education funding; a Republican side-by-side to the Murray-Harkin amendment regarding education funding; Baucus amendment regarding expiring provisions, as a side-by-side to the Hatch R&D amendment; the Hatch amendment regarding R&D; Reid amendment regarding FMAP/Cobell funding; Grassley amendment regarding biodiesel; that upon disposition of the listed amendments, no further amendments be in order; that the substitute amendment, as amended, if amended, be agreed to, the bill, as amended, be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill; finally, that once this agreement is entered, the cloture motions on the substitute bill be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. This is a bill which, at its core, initially had pretty broad bipartisan support. But, as sometimes happens in the Senate, it got all snarled up with a variety of other matters.

I would like to propound an alternative consent with the following explanation. When you review the record on this bill, you will find that we have had exactly two votes. One was a motion to proceed, and the other was on an amendment offered by the majority. The majority leader has filled the tree on three separate occasions on three different substitutes. In effect, we have been completely shut out on the floor in terms of amendments we wanted to offer. We basically had to ask permission to offer amendments. I don't like that kind of process, but to get things moving, we actually gave the other side copies of our first few amendments almost 2 weeks ago—2 weeks ago. We were told the other side would want alternatives to our amendments, and it took until about an hour ago—an hour ago—before they produced their amendments.

So to be clear, the majority leader moved to proceed to this bill on June 24, and since the time the bill was actually pending, the small business bill was set aside to consider six other legislative matters during that period. And although I supported a number of those other issues, the fact is, we have not had any opportunity to offer amendments.

Having said that, I believe a better way forward is as follows:

I ask unanimous consent that the cloture motions with respect to the small business substitute and bill be vitiated.

I further ask that the following amendments be in order to the Reid substitute: the Johanns 1099 repeal, the Hatch R&D, the Hatch tax hike prevention, the Grassley biodiesel, the Sessions amendment on spending caps, a Hutchison amendment on nuclear loan guarantees, a McCain amendment on border security, and a Kyl amendment on death tax.

I further ask unanimous consent that it be in order for the majority to offer a relevant side-by-side to any of the above-mentioned amendments.

Before the Chair rules, I would tell the majority leader that I will work with each of our sponsors to lock in reasonable time agreements on these amendments.

Therefore, Mr. President, I propound that alternative consent.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I am terribly disappointed, Mr. President. We have tried our utmost to be fair and reasonable, but it is obvious there is no effort here to solve the problem with small business across this country.

The spending caps in the Sessions amendment we voted on five times, at least. Anyway, we have voted on it quite a few times.

Nuclear loan guarantees. This is an amendment that is suggesting there are not enough loan guarantees for constructing nuclear powerplants. And that is probably true, but that has nothing to do with this bill. That is not small business. We are talking about tens of billions of dollars—tens of billions of dollars for one plant, and we are talking about five or six plants. So we are talking about maybe $50 billion. That has nothing to do with small business.

The McCain amendment on border security. We know that is the place they always go—''they'' meaning my friends on the other side of the aisle—is to border security. It is interesting to note that on the supplemental appropriations bill, that was one of the amendments that was on the bill we got from the House, and we agreed to do that. We said: Let's do that. The money is there. Let's do it. There was an objection from the Republicans.

So I feel so disappointed for a lot of reasons, not the least of which is small businesses in America need this help. The Small Business Administration needs what we are doing here, and community banks need what we are doing here.

I also feel badly for another reason. Senator LANDRIEU, the chairman of the Small Business Committee, has worked on this matter tirelessly for a couple of weeks. The Landrieu provision was taken out of the bill in an effort to get enough votes to pass this. She was given the assignment of getting some Republican support, and she did that. That is how we got the votes last Thursday evening, because she worked with them and we picked up two Republican votes. So I feel bad that she is not going to see the fruit of her labors unless something changes. She has done remarkably good work.

This legislation is supported by chambers of commerce and all kinds of

organizations. This is not a Democratic bill; this is one that is bipartisan. If there ever were anything that is bipartisan, it is this bill.

The estate tax? Let's be serious. We all know, Mr. President, that this is an effort to stall and not do this bill. There is no suggestion that we don't need to do something with the estate tax before we end this congressional session, but it has nothing to do with this legislation before us. We were told there were three amendments they wanted, and we agreed to take those.

So regretfully, unless someone can come up with a proposal that is something that has reasonableness in it—I can't imagine what is wrong with what we have suggested. We take their three amendments, we have side-by-sides to those and go to cloture in the morning.

I notice the consent agreement they have given us here has no time limit. I know my friend said he would work on time agreements. And even when we finish this, there is nothing that says we would even go to the bill then. This is the proverbial stall we have had all year—an effort to say no to everything we do. So I regretfully have to object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the majority leader's request?

Mr. MCCONNELL. Reserving the right to object—and I will object—I would just say to my friend that this bill initially did enjoy bipartisan support. But where we stand today, the Democrats want to offer amendments about health care, about educational funding, about FMAP, and about Cobell funding, so we have both sides sort of piling on here.

I guess I would say to my friend from Louisiana that this is a discussion worth continuing with her counterpart, the Senator from Maine, who is our leader on the Small Business Committee, because somewhere in all of this there is a bipartisan bill, if we can structure the right kind of process that eliminates the feeling—beyond feeling, the reality of the minority getting shut out.

Therefore, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, if the minority leader will yield for a question, I appreciate how the leaders have tried to work together, although we don't seem to be getting to an agreement at this moment, but I wanted to ask the minority leader to clarify something. When he said things got snarled up, I don't know what has been snarled. The only amendment that has been offered on this bill, which was passed with 60 votes, was an amendment offered by Senator LEMIEUX from Florida, who is a Republican. It wasn't mine. I was a cosponsor, but he was the lead sponsor. It was a Republican amendment that was offered on the floor and received 60 votes. Is that what he was referring to that got snarled or was it something else?

Mr. MCCONNELL. I would just say there is now substantial opposition to the bill. I sense a significant lack of enthusiasm on the part of our ranking member. She can speak for herself, but my advice to my friend from Louisiana is that this is worth continuing to discuss to see if there isn't some way to get this bill passed in a form that is acceptable to most of the Senate.

Ms. LANDRIEU. May I ask another question? I appreciate what the Senator has said, but the ranking member has made it clear for many months now that she doesn't support—and I have great respect for her—the Small Business Lending Fund. So we actually did what we were supposed to do. We had a debate for 12 hours on the floor, and everybody got to speak. She spoke, I spoke, everyone spoke. And do you know what happened? The minority leader may remember. We got 60 votes, so we won.

Mr. MCCONNELL. If the Senator will yield for a suggestion.

Ms. LANDRIEU. Hold on. I just want to say, if that is not the process, I don't know what is. We didn't cut that deal in the back room. We told everybody what we were going to do. I stood out here for 12 hours. We voted in public. Everyone knew about it. So if that is the definition of snarled, we have a real problem.

But go ahead. Yes, I will yield for a question.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. I was going to say that those points are ones better addressed to the Senator from Maine, and she is not on the floor at the moment. I am sure, if you can discuss it—you know a great deal about it as you have worked on it together. I think you ought to continue to discuss it.

Ms. LANDRIEU. Well, I appreciate that because I do have the greatest respect for the Senator from Maine. But she has not been excited about this program. She voted no, but we got 60 votes for the program. So I think perhaps we might find a way forward.

I am going to yield in just a minute, but the minority leader said he wanted eight amendments; our side wants three. Maybe we can figure out some way to agree on five on each side and get the small businesses in America the help they need.

I don't know if the Senator from Illinois has an idea, but the Republicans want eight; we want three; let's get five.

Mr. DURBIN. If the Senator from Louisiana will yield for a question, the majority leader just said we are going to continue to work on this, but I remember yesterday, during the debate on the DISCLOSE Act, the Republican leader came to the floor and was critical of the fact that we had left the small business bill. He said: Why don't we stay on the small business bill? It is very important.

Today, we couldn't work out an agreement when we accepted the three amendments which the Republicans said they wanted to offer. We said: Fine, you may offer those three, we will offer three, and let the Senate decide.

Now the Senate minority leader, the Republican leader, comes to the floor and objects again. He can't have it both ways. He can't complain that we are killing time here on the floor instead of taking up small business and then, when we return to it, object to finishing the bill.

Right now, if I am not mistaken, we are facing a cloture vote. That will happen automatically in the morning, if I am not mistaken, on this bill, and I am hoping we can either get a unanimous consent agreement by then or some agreement by some Republicans to stand up for small business.

Ms. LANDRIEU. Yes. And I thank the Senator.

Mr. DURBIN. Is that not true? I am supposed to form a question.

Ms. LANDRIEU. I think the Senator has assessed it correctly. But we have worked in a bipartisan fashion through both the Finance Committee—and I see the Senator from Montana, the leader of that committee, is here—and through the Small Business Committee. There were a few issues that couldn't be worked out in those committees, so the idea is to bring them to the floor and get a vote. We brought the lending provision to the floor, we had a vote, and we got 60 votes.

So let's just continue to move on. If someone wants to offer an amendment to strike it and take it out—I don't think they will get that but, fine, and let's move on. It is a very strong bill.

I just want to say that the only amendment that has been adopted to this bill has been a Republican amendment—with my cosponsorship—by Senator LEMIEUX from Florida because he says he has a State full of small businesses that desperately need this help. So we are not that far apart. They want eight amendments; we want three. Maybe we can figure out five amendments that could be offered because I think the small businesses of America deserve our best efforts.

I thank the Senator from Illinois.

MORNING BUSINESS

Mr. REID. Mr. President, it appears we have reached an impasse here. I ask unanimous consent that we go into a period of morning business now, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I wish to speak up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS LENDING FUND ACT

Ms. LANDRIEU. Mr. President, I am still hopeful we can find a way forward. Many things in life are worth fighting for and this bill is one of them. I did not know if we would have to fight 12 hours and a few days or 12 hours and a month. But we are going to continue to fight for a strong small business bill for America.

It is extremely important that we focus our attention on small business and that is what this bill does. We have a bipartisan bill. We have had a bipartisan amendment offered by the Republican from Florida, Republican GEORGE LEMIEUX, that got on this bill after 12 hours of debate. It is a stronger bill because of it.

Because of a request by Senator LINCOLN from Arkansas and, I understand, Senator SAXBY CHAMBLISS from Georgia, the leader, our leader, included at the request of both of them—not one, but both the Senator from Georgia and the Senator from Arkansas asked for the farm disaster relief to be included. It costs $1.2 billion. The wonderful thing about it is it is paid for.

The status now is we have a very strong bill—$12 billion in tax cuts, a small business lending program and credit and collateral programs, a strengthening of all the SBA programs, the entire bill is paid for, and we have bipartisan support. What could go wrong?

Something has. I am not sure that I know all the details of it, but I do know this bill is worth fighting for. I have been joined by the U.S. Chamber of Commerce, the National Federation of Independent Business—I am going to submit again the long list of associations supporting this bill. I wish I could tell all these organizations that we could get this done tonight or in the morning. We have a vote in the morning.

If we cannot get it done in the morning, and we may, I want the leader to know we are going to work hard over the August break because small business in America is desperate for a bill such as this, with a menu of choices, things that could work for them. We have spent a lot of time focused on Main Street.

We have given a lot of tax credits for big business. We bailed out the auto industry. We bailed out Wall Street. Yet when it comes to supporting and coming to closure on an extraordinarily good bill for small business, we cannot seem to do it because one side wants eight amendments and one side wants three? We can't figure that out? Any three? Any eight? Even if they are not paid for, people can vote them up or down.

I hope these organizations that have a lot at stake in this bill, our community bankers, our realtors, homebuilders—manufacturers have worked so hard. Because of the Senator from Montana, something that the self-employed wanted—and Senator DURBIN has worked on this, actually worked for 8 years to put a $2 billion tax break in for the self-employed so they can get a write-down for their health insurance. They worked on that. We tried to get it done on the health care bill and could not. Senator BAUCUS promised the minute we had an opportunity we would do that. That is in this bill. So we have a $2 billion tax cut for the self-employed, to help them fund insurance for this year.

We have $10 billion in other targeted tax cuts for small business as well as strengthened programs that raise the loan limits, et cetera.

I think the bill is in great shape. We just need to get it over the finish line, and I hope the Senator will continue to fight for it because he has and I hope he will continue.

Mr. DURBIN. Will the Senator yield for a question?

Ms. LANDRIEU. I will yield for a question.

Mr. DURBIN. She made reference to the fact that the Senator from Arkansas, Senator LINCOLN, had asked for some agricultural disaster assistance which is now included in this bill, and she has represented in the Senate that this has bipartisan support?

Ms. LANDRIEU. Yes.

Mr. DURBIN. I don't know if the Senator has heard from others that they object to her adding this in the bill, but if I am not mistaken, we are prepared to take a vote on that on the floor on the agricultural disaster assistance, if that is what is being asked of us.

Ms. LANDRIEU. I thank the Senator for raising that. Although it was not said publicly, I have been told privately that there is some strong objection on the Republican side for including that. I said I thought it was a bipartisan amendment, but if it is not, perhaps something could be worked out where we could have a straight up-or-down vote on that on the floor. That did not seem to satisfy the critics. Let's wait and see. I don't know how to respond other than I have heard that. I have said I think there are enough votes on the floor of the Senate, Republicans and Democrats, to vote to move that provision with this bill. If there is any doubt about it, then let's have a straight up-or-down vote on it, but we will see.

Right now, in conclusion, the bill, the package that came to the floor, has one amendment offered by Republican LEMIEUX and LANDRIEU, and the agricultural disaster. That is it. That is what is in this bill and it is worthy of a positive vote.

If there are three or four or other things that need to be amended, we should figure that out, but I am prepared to vote to move this bill to final passage because it is in excellent shape with bipartisan support—although not everybody supports every provision. We most certainly have had a very rigorous debate and hopefully we can continue to keep this bill in its current form, with maybe a few additions, but if not, it is in very good form now, and I yield the floor.

I will suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Alaska is recognized.

Mr. BEGICH. I appreciate the Senator coming up for a couple of minutes while I echo the concerns of the Senator from Louisiana. I listened to this debate that was going on for hour after hour and, as a new Member, I have to echo what the Senator said.

The committee worked on it. They worked very hard, and not just the last few weeks. For the last year and a half it seems like she has been working on this—a good small business package that ensures that the small business communities of this country in my State and your State and the State of the Presiding Officer can move forward, can advance. The Senator did not come to agreement on some, so she came to the floor. She worked an amendment and 60 people supported it. That is part of the bill now. That is part of the process.

I don't know about this idea of going behind closed doors and trying to work it out when you have done that. You have done the people's business in front of the people. That is exactly how, I thought, as a new Member of this body, it works. You fight your fight in the committee, you win or lose, and then you get a chance down here hopefully to offer an amendment. It might pass, it might not pass.

I think what we have tried to do—and I commend the Senator for it—in this bill, to echo what the Senator said, is about $12 billion that the small business community will not have to pay to the IRS. It will save them money. It will get the IRS out of their pockets. This is good for small business.

When they made the comment on their side this might be killing time, they are killing small business. Every day we wait to not allow them an opportunity to reduce their taxes, to save them money, to give them a chance to expand their businesses, is outrageous.

The second piece, on the loan package, is a great loan package. No one is forcing the community banks to do it; it is an option. If they do it, they get a lower rate that the small businesses then benefit from and create new jobs and more jobs. They are the creators of the new economy and long-term economy of this country. Fifty-six percent of the employment in my State is from small business. This is a good plan.

Why they want to go into all these other amendments that have no relationship to small business—it is appalling. That is why the American people are so mad at Congress, why we have

an 11-percent popularity rating, because people want to put on their special deals so they can say some statements in a campaign, when we should be focused on small business. We can all say then we helped save this country from another economic collapse because we actually invested in the people who build jobs, who work every single day. As we sit here and wrangle over a couple of amendments, they are trying to make their businesses survive.

I was not planning to speak. I just got a little agitated. Again, as a new Member I get so frustrated with all these political gimmicks they want to add on the bills when we should be focused on one thing. Small business is what we need to protect. I have been in the small business world. I have taken out these 7(a) loans that SBA does. I have dealt with the 504 loans. I have seen the impact in my State, tripling the amount of small business loans because we made adjustments in the Recovery Act that you are now trying to extend. It works. It actually creates real jobs.

For us to sit down here and have the other side come down and say we are killing time—they are killing small business every day.

I got a little agitated. I wanted to come down and say my piece. As a person who had my first business license at the age of 16 and still continue to have business licenses today—my wife is a small business owner—we understand what businesses go through.

When the chairman of the Finance Committee talked about the 179 depreciation, accelerate it, that is a huge benefit. If you can write off $250,000 in the first year and put in the 30-percent tax bracket, that is a $75,000-plus savings, hard cash now that small businesses can generate and put into their businesses. I don't know how many people on the other side have been in small businesses and have had to struggle and deal with their bankers and deal with tax returns and all that. I have. These provisions will make a difference and create jobs, not only today but in the future.

I commend the chairwoman for what she is doing. I agree, it is a simple solution. Let's move on, save our businesses, save our country, and protect the jobs we need to have in this country.

I will stop there before I go on.

Ms. LANDRIEU. I wish to speak for 2 minutes to close this out.

I thank the Senator from Alaska who has been very forceful in his advocacy for this bill and for lending the experience he has had, before he was a Senator, as a small business owner to help strengthen this bill.

I want to be very clear. As this bill stands right now, this was a bipartisan bill when it came out of the Small Business Committee and the Finance Committee and it still is a bipartisan bill. The only two changes that have been made to this bill we are going to vote on tomorrow—the only two that were made to this bill—No. 1 was a LeMieux-Landrieu amendment that added a $30 billion small business lending fund that was voted on on the floor of this Senate by 60 Senators, a voluntary small business lending fund that goes only to small community banks so they can turn around and lend money to Main Street. That is it.

In addition, the Senator was smart enough to also ask for, and it was in that amendment, an antifraud provision to save the taxpayers money from people trying to defraud the Federal Government by not using their credit cards in the right way when they pay for Medicaid and Medicare services. That is an added benefit to the taxpayer.

The third piece of this amendment, to be very clear, was an expansion of an export provision that Senator SNOWE and I jointly put on the bill that the Senator did with Senator KLOBUCHAR. So all three aspects of the LeMieux-Landrieu amendment were jointly supported by Republicans and Democrats and debated for 12 hours on this floor, voted on with 60 votes.

The other amendment that was added to this bill in late night negotiations, which was in public view and public record because it was done at about midnight in public view, was that the leader said—at the request of both Senator from Arkansas, Senator LINCOLN, and the Senator from Georgia, Senator SAXBY CHAMBLISS—he was going to put in a $1.2 billion disaster loan provision for farmers, not all but many of whom are small businesses.

I know you might say why is that on this bill. This is a small business bill and that is a farming issue. It is an issue important to Members on both sides. There are not going to be that many bills passed between now and the next few days.

Ms. LANDRIEU. The farmers are an important constituency. They have broad-based support. So that is on this bill. That is it; the bill as it came out of Finance, the bill as it came out of Small Business with those two amendments—one put in by the leader on the request of Democrats and Republicans, another one added by a public vote, by the Members of this body. This is a very good bill.

I do not understand why we cannot have eight or five or three. But I want the small business community out there to know, they need to fight for this bill in its current form. We can have a debate on nuclear policy on an energy bill. We can have a debate on tax extenders on the extenders bill. We can have a debate on Tax Code changes on a finance bill. But this is a very bipartisan, strongly supported, broad-based small business bill that is going to affect every Member in a positive way.

I see my friend from Rhode Island. I do not want to take any more time, so I will yield the floor.

I thank my colleague from Washington State who may speak on this and other subjects.

She has been extraordinary. And she knows. She has built a small business that turned out to be quite a big business—very successful. So she has been there before, and she understands what businesses need, the kind of capital they need to grow.

I thank both Senators, particularly the Senator from Rhode Island for his tremendous support.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH.) The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, shortly I will be going into the closing script for the evening. But before I do that I wanted to first commend the Senator from Louisiana for her tenacity on the subject, Senator CANTWELL of Washington State, Senator MERKLEY of Oregon, and others who have been equally determined. But Senator LANDRIEU has been the front and center voice, and it has been impressive to watch her in action. I wish her success and pledge her my complete support.

ENERGY

Mr. WHITEHOUSE. Mr. President, before I go to the closing script, I just want to take a moment to express my sorrow and dismay that we appear to have walked away from doing anything serious about our energy posture and the hazard that carbon pollution is creating in our climate and in our atmosphere during the remainder of this Congress.

People will tell you differently, and there clearly has been a massive campaign of misinformation and disinformation funded by very powerful special interests. But I think the facts are pretty clear. History will judge us whether we are right or wrong. But I feel safe in history's judgment that if we do not act seriously to do something about our energy picture, there are real consequences coming. There are real consequences coming.

In my home State, you can go to Johnston where there are nurseries, and some of them have been owned for generations. For the first time a few years ago we had a winter bloom. A cherry tree in my yard in Providence bloomed in January. It has not happened before. I spoke to some of the nursery owners, again, going back generations; no recollection of that ever happening. Of course, you start blooming fruit trees out of season, you can put that crop in peril.

If you go out to Narragansett Bay you will see that the winter water temperature of Narragansett Bay has climbed about 4 degrees. That may not seem like much to us who do not live in those waters, but as Perry Jeffries, who is a very distinguished marine biologist at the University of Rhode Island, told me years ago, that is an ecosystem shift. Our fishermen have seen

that ecosystem shift. They used to trawl for winter flounder, a very productive crop in Narragansett Bay. That is almost gone. The population has crashed 90 percent, by press reports. Now they catch scup instead. There is nothing wrong with scup, but it does not pay what winter flounder does, and it has had a real effect on that industry.

If you go out more broadly into our oceans, you go up to the Presiding Officer's home State of Alaska, into the far North, and you see ice caps that have been there for as long as the memory of the Native Alaskans runs. They have been there for as long as the memory of man runs. Now they are receding and disappearing and changing the entire arctic ecosystem.

If you go down to the Southern Ocean and the tropical coral reefs that are the nurseries of the oceans, they are bleaching, they are dying, they are going. Many are gone. If you go way offshore, you find garbage gyres in the Pacific the size of Texas and things we have dumped that are trapped out there.

You find a dead zone in seas around the world, where there simply is not the oxygen left to support life. Wherever you go, you find the acidification of the ocean. The ocean is more acid right now than it has been in 8,000 centuries, and 8,000 centuries is a long time.

We are gambling with some very dangerous consequences when we are not doing something about an ocean whose acid level is the highest it has been in 8,000 centuries. Science tells us that there have been ocean die-offs before. Very bad things can happen.

We need to take prudent action now, and it is not as if this is a choice just between a dangerous future that we need to guard against and costs that we need to impose on society now to protect against those dangers. I would be happy to have that conversation. I think it is still important because those outyear concerns for our grandchildren, our great-grandchildren are so serious that it merits a little bit of effort now and maybe even a little bit of economic pain now to spare them disaster.

But, in point of fact, when you make these investments in a new green, renewable economy, you actually win. It is not lose now to win later, it is win-win because we advance our green economy, we claw back the advantage that the Chinese, the Indians, and others—the European Union—are running away from us right now because we have not adapted our policies to the needs of the moment. You create jobs, thousands and thousands, hundreds of thousands of jobs.

You reduce our deficit; that was the calculation. You clearly enhance our national defense—there is literally no dispute about that—and you take a vital step toward energy independence so we are not in that terrible cycle of funding people who wish us harm and do us harm. Those are all wins.

There are people on this floor who would come and object. We did not have one Republican vote. Not one. Not one. But I think we should have had the fight anyway. I think it is an important fight to have. I think history will look back on this day, and when they are looking at the consequences of our heating planet, of all of the changes in our economy and our habitat in our home States that will accrue, and they look back and say: Why did you do nothing, it will be very hard to have an answer.

I think it would be better to answer: Well, at least we tried. Frankly, I think because the American public is so clearly behind this, if we had taken this to the Senate floor and we had a real fight, if we had the White House behind us and ready for a fight, if the environmental community was willing to put their resources behind this moment and stand up at the same time and join that fight, and if all of the hundreds and thousands of green businesses out there were willing to go to their elected officials and say: This is good for the economy, good for our jobs, good for development, it will help put us back in the fight against China and India and the European Union, I think we could have won. I truly think we could have won.

We probably would have started with maybe 50 Democratic votes. I would hope a few more, but I think once we engaged and all of that pressure came and the logic of the debate began to happen and the magic of the Senate of real debate, of ideas clashing, of back and forth right here in the Chamber began to happen, I think we could have gotten to it.

But even if we had not, we should not have walked away. We should not have just rolled up our tent, given up, and walked away because some fights are worth having even when you lose.

There is a plaque near the pass at Thermopylae where, many years ago, a very small band of Spartans held off the Persian Army for a while. Eventually, they were all killed. There is a burial mound where their bodies rest. On the burial mound there is a plaque. The plaque says: Go tell the Spartans, stranger passing by, that here, faithful to their laws, we lie.

It has been 2,000 years since those Spartans died at the Thermopylae Pass. Today on the Senate floor, a Senator from Rhode Island can talk about what they did that day. If they had said: Gosh, there are an awful lot of Persians there; I do not know if this is such a great idea; we probably are not going to win today; we will just head up into the hills for a while and see how this all works out, well, maybe they would have lived another 10 or 15 years, but they would have lived in shame. They would have lived with a little cloud of disgrace on their consciences for the rest of their days. And 2,000 years later, no one would ever have heard of them. No one would ever have thought of them. There is sometimes value in having a fight even when you cannot win. And if there is value in having a fight when you cannot win, my God, there is value in having a fight when you can.

I think it was worth trying. So I am going to keep pushing and coming to the Senate floor and urging my colleagues to ramp up and let's take on this fight. We have to do it together. We need to have a strong majority of our caucus because not one Republican is prepared to join with us on this issue. Not one.

We have to have the support of the White House. They have to be ready to have a fight. They have to be willing to enter into a fight in which they are not guaranteed a victory. But the principle I believe is, if you set as your own limit that you will not get into any fight you are not guaranteed to win, you are going to miss out on the most important fights of your day. That is no place to be when the stakes are high. So here we are, and there the plaque lies: Go tell the Spartans, stranger passing by, that here, faithful to their laws, we lie.

We could have had a moment. It brings a little bit of goose bumps to my skin to say those words. To think that the sacrifice of those men that many thousands of years ago is still something in our minds, in our history, and in our consciences, I would hope that the day will soon come when we have a similar fight right here and, win or lose, our grandchildren, and our great-grandchildren, looking back on this day when we let them down, will at least know that we tried; that faithful to their benefit, faithful to their good lives, we tried.

NORTHERN ILLINOIS FLOODING

Mr. DURBIN. Mr. President, Illinois, over the weekend, had torrential rains hit our State. They took a terrible toll on already strained water and flood control systems across Illinois. In a matter of hours, Chicago and northwestern Illinois were pounded by nearly record amounts of rainfall. An estimated 60 billion gallons of rain fell on Chicago Friday night. I was driving in. I was there. My wife was struggling to come in from Washington, and it took her all night to make it to Chicago. It led to flash flooding, a lot of evacuation, and lot of property damage.

The rain actually started Thursday night. By Friday morning, we had 6 inches of rain and flood conditions. Another intense rain began again on Friday and didn't let up until Saturday morning. In Joe Daviess County, at the northwest corner of our State, more than 12 inches fell during the course of the weekend. Roads are closed in Joe Daviess, bridges are out, and the county—along with several other counties in the region—have declared a state of disaster as they focus on cleanup and restoring basic services.

Yesterday, I talked to Mayor Larry Stebbins of Savannah and to Sheriff

Jeff Doran of Carroll County. I spoke to Randy Prasse, too, who leads the Tri County Economic Development Alliance. His group is part of the local leadership working to assess damage and restore business.

Across the north and northwestern part of Illinois, people have lost homes and businesses, many more were forced to evacuate, and hundreds of thousands lost power and safe drinking water.

The Chicago area was hit particularly hard by the Friday night rains which dumped 4½ inches of rain on Chicago and up to 7 inches on the nearby towns of Westchester and Cicero. The rains flooded 43 viaducts and quickly filled all 190 miles of the Deep Tunnel system.

I would just like to say to my friends who talk about the access of our river and canal system to Lake Michigan that if we could not send that storm water out into Lake Michigan, the flooding would be dramatically worse. We have a deep tunnel that gathers as much water as we can in these rains, but it is not enough. It was overwhelmed this last weekend. So those who have a concern about the Asian carp, as I do, need to also be as concerned about the environmental impact of decisions that might be made. We are trying to put this in the context of economic reality, flood reality, and certainly the reality that none of us want to see this invasive species in Lake Michigan. But it is a complex interconnected system, and we have to look at the entire system, not some quick press release that might suggest an easy answer that may not really solve the problem but may create more.

One apartment building along the Chicago River was evacuated before 12 feet of water rolled in—12 feet—flooding the basement and cutting off electricity to a 17-story building.

The Sun came out on Sunday and, true to form, Illinoisans began digging out and cleaning up. The damage from these floods led Governor Pat Quinn to declare a State disaster in 12 counties—Carroll, Cook, DuPage, Henders, Joe Daviess, Lee, Mercer, Ogle, Rock Island, Stephenson, Whiteside, and Winnebago. As the water begins to recede, the recovery and damage assessment has just begun. Communities such as Savannah, Westchester, Cicero, Melrose Park, and others suffered substantial damage. But anyone who suffered damage during this flood faces a long difficult process to recover. Some homes will need to be rebuilt in some parts of our State, mold and waste removed, possessions replaced or repaired, highways, bridges and other necessary infrastructure restored, and businesses reopened.

Already cash-strapped, many of the affected communities are struggling to figure out how they will manage the cleanup, repair the roads, restore the bridges, and help the residents recover. I spoke last night with John Blum, the County Board Chair for Stephenson County, Congressman MANZULLO, and other leaders in the region. We also talked to Marvin Shultz, Joe Daviess County board chair, and Rodney Fritz, the Carroll County board chair. They are hurting, but they are determined. They are working around the cloak to restore services and get their communities back to work.

As the State and Governor continue to assess damages and options for recovery assistance, I am standing ready, I am sure, with my colleague, Senator BURRIS, to help Illinois residents impacted by this flood. I look forward to working with the Governor to explore any Federal assistance for which the State and communities may be eligible.

Mr. President, I might say, we were recently asked by the States of Tennessee and Rhode Island to deal with their horrible flooding conditions, and we did, no questions asked. In this body, we stand as a family for our Nation. If one part of our Nation is struggling with a disaster, we stand together to help. No questions asked about Democrats and Republicans, no questions asked about are we going to raise a tax to do it. Let's help these people in trouble right now. I hope once the assessment is made we don't have to come here and ask for that assistance for Illinois. But if we do, I will do it with the knowledge that I have stood with other communities and other States when they have faced similar circumstances, and this Senate and this government have responded when needed.

REQUEST FOR CONSULTATION

Mr. COBURN. Mr. President, I ask unanimous consent that the following letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SENATOR TOM COBURN, MD,
Washington, DC, July 27, 2010.

Hon. MITCH MCCONNELL,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am requesting that I be consulted before the Senate enters into any unanimous consent agreements or time limitations regarding S. 714, National Criminal Justice Commission Act of 2010.

I support the goals of this legislation and believe that our criminal justice systems should be effectively and efficiently managed. However, I believe that we can and must do so in a fiscally responsible manner that upholds the Constitution. My concerns are included in, but not limited to, those outlined in this letter.

First, this bill costs the American people $14 million. While an amendment proposed by the bill's sponsor does have offset language, it is insufficient. It does not specifically rescind a certain program or dollar amount from the Justice Department's budget. Rather, it directs the Attorney General to propose an offset in the amount of $14 million. This will neither guarantee a truly wasteful or fraudulent DOJ program will be eliminated, nor even guarantee an offset will be enacted into law, as the bill does not require Congress to act on the Attorney General's proposed offset.

Moreover, it is irresponsible for Congress to jeopardize the future standard of living of our children by borrowing from future generations. The U.S. national debt is now more than $13 trillion. That means over $42,000 in debt for each man, woman and child in the United States. A year ago, the national debt was $11.2 trillion. Despite pledges to control spending, Washington adds $4.6 billion to the national debt every single day—that is $3.2 million every single minute.

Second, I believe this legislation gives the federal government too much control over the practices of state and local criminal justice systems. This commission is tasked with a very broad and comprehensive review of federal, tribal, state and local criminal justice systems' costs, practices and policies. While I support and affirmatively recommend individual states' investigation and analysis of their own criminal justice systems, doing so is not the responsibility of the federal government. Our Constitution establishes distinct responsibilities for the federal government, and we should use federal funds wisely to prioritize and support those enumerated powers. By allocating $14 million in federal funds under this legislation, we do a disservice to our own federal criminal justice system.

For example, the purposes of this commission are broad enough to include an analysis of juvenile incarceration policies. The Congressional Research Service (CRS) notes, ''administering justice to juvenile offenders has largely been the domain of the states . . . there is no federal juvenile justice system.'' CRS continues, ''states and localities have the primary responsibility for prevention and control of domestic crime.'' This is just one example of how the breadth of commission's duties not only fails the test of federalism, but also fails the federal criminal justice system. By focusing on issues that are clearly the responsibility of the states, this bill gives short shrift to needs of the federal criminal justice system.

States are already free to share with each other the positive and negative features of their individual criminal justice systems. States do not need a federal commission in order to communicate their ideas to one another. Furthermore, the budgetary decision by a state to spend certain state revenues on state corrections, for example, versus other state budget line items is the business of each individual state, not the federal government. Each state has different needs and priorities based on its own unique population for which it must account in its budget allocations. Congress should focus on improving its oversight of the federal criminal justice system under its jurisdiction so it can be an example to the states of best practices, rather than spending money on a commission to help the states determine what is right for their communities.

Third, the scope of the report required under this legislation is entirely too broad to be completed within the 18 month timeline. If Congress is looking for specific recommendations for improvements in federal, tribal, state, and local criminal justice systems, this commission will not accomplish that goal effectively in 18 months.

In fact, the Government Accountability Office (GAO) has been asked to produce similar reports in the past. However, GAO has declined to do so because of the breadth of the report elements, such as the ones required under this bill. In addition, in GAO's experience, states do not return requests for information promptly or responsively in order to create a report that is actually helpful and valuable to Congress. In fact, the outcome of

the commission's report will be heavily based on whether states choose to cooperate in providing information.

Even if the report were narrowed to only study the federal criminal justice system, the scope of issues to be examined is still too extensive. In this bill, the term ''criminal justice system'' remains far too broad. While a report on only the federal criminal justice system could be valuable to Congress, to be effective, such a report should be narrowly targeted on specific features of the federal criminal justice system, such as law enforcement, courts, or detention facilities.

Finally, Congress already has the authority to request reports and studies of the federal and tribal criminal justice system. The Judiciary Committee and its subcommittees are also free to hold hearings on the topics outlined in this legislation. Arguably, the Judiciary Committee is abdicating to the commission part of the responsibilities it is already federally funded to perform. The commission is not necessary in order for Congress to study these issues, and it is likely duplicative of existing Judiciary Committee duties.

Our federal government has a debt of over $13 trillion. While I realize there are likely changes we should consider making to our federal criminal justice system, I do not believe this commission, with its unlimited scope and $14 million in funding, is the best way to determine which improvements may need to occur. Supporters of this legislation believe nothing in the bill requires the states to implement any of the commission's recommendations. It is true, sponsors included language stating, the ''[r]ecommendations shall not infringe on the legitimate rights of the states to determine their own criminal laws . . . .'' However, it is hard to imagine state and local governments would not feel pressure to enact whatever changes the commission recommends. Thus, in effect, not only would the federal government ultimately shape state and local criminal justice policy, but state and local governments could also easily determine they ''deserve'' federal funds to enact what the Congressionally-established commission proposes.

While there is no question there are vast improvements to be made at all levels of the criminal justice system, the federal government should focus on remedying the growing problems in the federal criminal justice system, not spending federal funds to determine what states are doing wrong and how to fix those problems. States can improve their criminal justice systems by learning from other states, as well as the federal government, if only Congress would effectively perform oversight of and insist on improvements within the federal criminal justice system to make it an example the states can emulate.

Sincerely,

TOM A. COBURN, M.D.,
United States Senator.

20TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. KOHL. Mr. President, I rise to highlight the significance of the many events and announcements occurring around the country to celebrate the enactment of the 1990 Americans with Disabilities Act. This week in Wisconsin, disability advocates are holding multiple events around the State to commemorate the signing of the law on July 26, 1990, at a White House ceremony by President George H.W. Bush.

Disability advocates, employers, State and local officials, and policymakers are speaking about and reflecting on how they have worked together and joined forces during the last two decades to make major changes in housing, in transportation, and in health and social services.

There is much discussion in the news and online about the ADA as well. In an online video entitled ''We Came Together: Wisconsin Reflects on the ADA's 20th Anniversary,'' one Wisconsin disability rights advocate, Dick Pomo, observes that ''disability today is simply a fact of life—not a way of life.'' This statement is testament to the hard work of millions of Americans who have come together over the last several decades, and who have journeyed to State capitals and Washington, DC, to deliver the message that they wanted to participate fully in society. Simply put, they did not take ''no'' for an answer.

I am also reminded that in the Senate the ADA is one of the legacies of the late Senator Edward Kennedy, with whom I worked to see that this civil rights bill became the law of the land. The House of Representatives experienced a milestone this week when Representative JIM LANGEVIN of Rhode Island was able to preside over the House because the Speaker's rostrum—a raised platform—had been made wheelchair accessible. This is a wonderful and public symbol of accessibility, a core principle of the ADA.

There are many other concrete, visible gains: kneeling buses, sidewalks and driveways with curb cuts, crosswalks with traffic lights that make audible noises to signal when it is safe to walk, and elevators and ramps that have been artfully worked into the structure of new buildings and even many historic ones. For all this and much more, I salute the tirelessness and tenacity of disability advocates across the country who have joined forces to make American society far more open and accessible to all.

As chairman of the Special Committee on Aging, I know that many of these changes will also be of enormous benefit to our now rapidly aging society. Equally important are a series of changes that are now transforming the way health and social services are delivered to those with lifelong disabilities, as well as to older Americans whose disabilities are age related.

One such key program, known as Money Follows the Person, is a Medicaid demonstration initiative in which Wisconsin has participated since 2003. This program allows States to transition beneficiaries in nursing homes to community-based living situations if they wish to do so. Funds are used for various purposes—for example, for ramps, clothes, equipment and furniture. In Wisconsin, funds have been used to reduce the number of nursing facility beds and to track spending on long-term care services and supports on an individual level. The State has also applied for additional funding under the health reform law's expansion of Money Follows the Person, which is slated to provide $2.25 billion in new funding through 2016.

Another program that has been central to Wisconsin's growing success in making long-term services both more available and more focused on each person's individual needs is its Aging and Disability Resource Center initiative. State officials started ADRCs in 1998 in 8 of the State's 72 counties, and they have been gradually spreading and opening in new counties ever since. The goal is to have a statewide network of ADRCs in place by 2012, operated either by county government or nonprofit organizations. Often called the ''front door'' of long-term care, ADRCs are charged with serving all State residents by providing them with unbiased, comprehensive information about what services and options are available to them, and, where appropriate, with eligibility and enrollment information for the Medicaid Family Care managed long-term care program.

I am pleased that the Obama administration has made ADRCs—which were pioneered in Wisconsin—an important part of their efforts to make long-term services and supports a much more well-defined and well-understood part of our health care system. This is consistent with the intent and language of the ADA, and also with the Supreme Court's Olmstead v. L.C. decision of a decade ago, asserting that involuntary institutionalization of people with disabilities was discriminatory under the ADA. I commend U.S. Secretary of Health and Human Services Kathleen Sebelius for her efforts to engage States in the complex and critical tasks of improving the availability of community-based long-term services and supports, while simultaneously improving the quality and accountability of services that are provided in nursing homes.

One of my constituents recently shared with me a story that demonstrates both how important the ADA has been to people with disabilities, and also how far we still have to work toward a more inclusive and accessible society. Steve Verriden has been a quadriplegic for 35 years, the result of a dive into a lake when he was just 23 years old. Following his life-changing accident, he spent years in a nursing home before he was able to use a community integration waiver to transition to home-based assistance. With his new independence, Steve was also able to go back to school to complete a degree in journalism.

Steve has experienced how the ADA has changed the lives of people with disabilities, literally opening doors that were before inaccessible to people in wheelchairs and with severe disabilities. As Steve transitioned out of facility living and returned to school before the ADA was passed, he knows what it was like to have to wait in the cold for someone to open a door for

him, hope the classes he needed to take would be offered on a wheelchair-accessible building, and rely on friends to drive him and his wheelchair around before kneeling buses came along. Steve has since worked with an Independent Living Center, recruiting and helping people with disabilities transition from nursing homes back into the community, and sharing his personal insights with others in order to help them live more fulfilling and independent lives.

At the ADA's 20-year mark, it is clear that while we have accomplished a great deal, much change still lies ahead. The Aging Committee will continue to monitor implementation of health care reform initiatives that are designed to improve the quality of life for older adults, and will examine and explore new best practices and other efforts that can create better services, housing, and employment opportunities for the millions of Americans with disabilities.

STENNIS CENTER PROGRAM

Mr. KOHL. Mr. President, for 8 years now, the John C. Stennis Center for Public Service Leadership has conducted a program for summer interns working in congressional offices. This 6-week program is designed to enhance their internship experience by giving them an inside view of how Congress really works. It also provides an opportunity for them to meet with senior congressional staff and other experts to discuss issues ranging from the legislative process to the influence of the media and lobbyists on Congress, to careers on Capitol Hill.

Interns are selected for this program based on their college record, community service experience, and interest in a career in public service. This year, 23 outstanding interns, most of them juniors and seniors in college, are working for Democrats and Republicans in both the House and Senate.

I congratulate the interns for their participation in this valuable program and I thank the Stennis Center and the senior Stennis fellows for providing such a meaningful experience for these interns and for encouraging them to consider a future career in public service.

I ask unanimous consent that a list of 2010 Stennis congressional interns and the offices in which they work be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Jonathan Alfuth, attending the University of Wisconsin-Madison interning in the Office of Rep. Ron Kind.

Evan Armstrong, attending Villanova Law School interning in the Office of Rep. Bob Latta.

Patrick J. Behling, attending St. Olaf College interning in the Office of Sen. Herb Kohl.

Andrew Clough, attending the University of Oregon interning in House Committee on Rules.

Paul Doucas, attending Georgetown University interning in the Office of Sen. Herb Kohl.

Justin Folsom, graduate of Montana State University interning in the Office of Sen. Jon Tester.

Aquene Freechild, attending NYU Wagner School of Public Service interning in the House Committee on Appropriations.

Elizabeth Garner, attending Vanderbilt University interning in the Office of Rep. Michael R. Turner.

Nicole Gill, attending the University of San Francisco interning in the Office of Sen. Michael Enzi.

Susan Gleiser, attending Vanderbilt University interning in the Office of Rep. Pete Sessions.

Matthew Hoppler, attending Providence College interning in the Office of Rep. Michael R. Turner.

Justin Lee, attending Utah State University interning in the Senate Committee on Rules and Administration.

Amber Manglona, attending San Jose State University interning in the Office of Rep. Zoe Lofgren.

Hallie Mast, attending Ashland University interning in the Office of Rep. Bob Latta.

Rachael Nelson, attending Augustana College interning in the Office of Sen. Kent Conrad.

Ryan Oxford, attending the University of Michigan interning in the Office of Rep. Michele Bachmann.

Kristin Palmer, attending George Washington University interning in the House Committee on Appropriations.

William Rohla, attending Minnesota State University Moorhead interning in the Office of Sen. Kent Conrad.

Wes Wakefield, attending the University of Mary interning in the Office of Sen. Kent Conrad.

Kasey Wang, attending the University of Michigan interning in the Office of Rep. David Wu.

Zachary Warma, attending Stanford University interning in the House Committee on Armed Services.

Jared Wrage, attending the University of Wyoming College of Law interning in the Office of Sen. Michael Enzi.

Hannah Wrobel, attending the University of Wisconsin-Madison interning in the Office of Rep. Ron Kind.

BOY SCOUTS OF AMERICA 100TH ANNIVERSARY

Mr. LEMIEUX. Mr. President, I rise today to pay tribute and recognition to the Boy Scouts of America as they gather in our Nation's Capital to celebrate their 100th anniversary.

The Boy Scouts of America was incorporated on February 8, 1910, by William Dickson Boyce. Over the last century, the Boy Scouts of America has reached more than 114 million young people by combining lifelong values and educational activities with the fun and wonder of the outdoors.

Scouting plays an important role in preparing generations of young men for the responsibilities of adulthood. Boys learn the importance of respect and community service. Through scouting activities, Boy Scouts discover the satisfaction of achievement and self-confidence. Today's Scouts embrace a lifelong commitment to service, and embody the values of personal responsibility and self-discipline. They share a love of our environment, an appreciation of diversity, and an idealism and optimism in the future of our country. These are values that must continue to be cultivated and strengthened in communities all across our great Nation.

The Boy Scouts of America embody the moral values important to any society, and Scouts and Scout leaders are to be commended for their good work in promoting these values. As found in the Scout's Handbook, ''A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.''

Let us welcome the Boy Scouts of America to Washington, DC, for their 2010 Boy Scout National Jamboree and recognize their enormous contributions to our country. I commend the Boy Scouts of America organization for a century's worth of service and commitment to instilling the finest values in America's future leaders.

ADDITIONAL STATEMENTS

REMEMBERING GEORGE J. RITTER

● Mr. DODD. Mr. President, today I honor the life and career of George J. Ritter, who passed away on July 18, 2010, at the age of 90.

George was a remarkable public servant and a person of great principle and energy. His commitment to helping the less fortunate and for advancing social progress through the law made a lasting impact on the city of Hartford and the lives of many working families.

He grew up in New Jersey, raised by the children of German immigrants who were the very embodiment of the American dream. His grandfather had been sent to this country—alone—as little more than a child and began working full time to build a new life at the age of 12. His parents both began working when they were very young as well.

Their lives and the values they espoused had a deep impact on George, and it should come as no surprise that he would become a stalwart advocate for advancing the economic opportunities of all Americans, particularly for working families and minorities.

This clearly defined sense of social justice and the value of equal opportunities no doubt contributed to George's lifelong captivation with the law and the Constitution. He even hitchhiked as a teenager all the way to Washington, DC—just to observe the U.S. Supreme Court firsthand.

In our Nation, the will of citizens is the strongest force for social change. But building the coalitions necessary to make change happen is a difficult task and requires a common vision and commitment, and lots of energy.

George certainly had energy, and got to work building coalitions to push for change at a young age. As a student at Rutgers University, he worked to organize the nonfraternity members of the student body into a cohesive voting

block—which in turn, elected him to serve as the first nonfraternity student body president in the school's nearly 200 year history.

After college, his passion for the law took him to Yale Law School, in my home State of Connecticut. His legal education was interrupted by his distinguished service to the United States in the Pacific during World War II. Upon finishing his degree, he became active in the U.S. labor movement. He and his wife and partner in social activism, Patricia, had the opportunity to travel the United States and Europe studying unions and the labor movements that were beginning to gain steam and become a force in politics and society all across the globe. As a young labor attorney he worked to organize some of Connecticut's first municipal unions, and also served as an attorney for Dr. Martin Luther King, Jr.

At the ripe old age of 36 he became Hartford Corporation counsel, which launched a career in public service that continued until 1980. He served on the Hartford City Council from 1959 until 1968, and in 1969 was elected to represent Hartford in the Connecticut General Assembly. During his time on the council and in the general assembly, George worked to highlight and pursue progressive solutions to issues that were not yet part of mainstream concerns; from civil rights, to elder and juvenile justice, to government accountability, and of course, working to provide equal opportunities for all.

He was truly a pioneer when it came to raising concerns about and finding solutions to address the issue of civil rights and equal opportunities. In fact, in the early 1960s—prior to the passage of the Civil Rights Act—he and Patricia started the Connecticut Housing Investment Fund to help finance minority home-ownership and integrated housing. This organization became a model for subsequent national programs to support affordable housing.

Throughout his career he fought tirelessly for the rights of workers, and the advancement of housing, employment, and other opportunities for minorities—including by recruiting and managing the campaigns of the first minority candidates for the Hartford City Council and Board of Education.

He was also the first man ever appointed to Connecticut's Permanent Commission on the Status of Women, an honor that always gave him a smile, and spoke volumes of his commitment to equal opportunities for all Americans.

Even outside of public life, George continued to work to help others. After retiring from the general assembly in 1980, he cofounded the Independent Energy Corporation. One of the projects of Independent Energy helped to streamline the electricity usage of the largest business in the Caribbean region. The electricity savings from that one business helped to lower the foreign exchange bill of the entire nation of Jamaica—a truly notable achievement.

By any measure, the life of George Ritter was an utter success. In business, in public life, and as the loving father of five children, George led a life of principle and purpose. His work benefitted his community and helped to expand opportunities for the less fortunate.

Even though he has passed, George's spirit of public service lives on. His sons Thomas and John have both served in the State legislature, and his grandson Matt is a member of the Hartford City Council and is running to fill the general assembly seat George once held.

I am confident they will continue to build on George's legacy, and am proud to call them my constituents. I wish them the best of luck, and hope that they will continue to pass George's values and character on for generations to come.●

FAITH, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I pay tribute to the 100th anniversary of Faith, SD. Faith is a strong community, and I am proud to represent them.

When the railroad announced its plan to settle a community at the edge of the Cheyenne Sioux Indian Reservation, settlers rushed to the area. Businesses sprung up before the town was officially mapped out. The railroad decided to plot the town south of the tracks so the town would expand into Meade County. Even after the drought in 1911, Faith continued to grow, making changes to its approach to farming and ranching. When the water supply was low in 1946, the town began shipping in water from Mobridge, and started constructing a water filtration plant. Faith is also known for the 1990 discovery of Sue, the most complete and best preserved Tyrannosaurus rex ever found. Sue is now on display at the Field Museum in South Dakota.

One hundred years after its founding, Faith holds its history close while continually looking to the future, demonstrating what is great about South Dakota, and why I am proud to call this great State home.●

FEDORA, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I honor the community of Fedora, SD, and to recognize the 125th Territorial Day. Situated in Miner County, Fedora is a testament to the great State of South Dakota.

From its beginnings, agriculture and small businesses have played an instrumental role in the livelihood of Fedora. Fedora was originally named after the daughter of a founding railroad executive. Upon the completion of the railroad, the town of Fedora slowly flourished. A creamery, grocery store and the Farmers Purchasing and Shipping Company gradually urbanized the town's landscape. Over time, small businesses have come and gone, however, the town's bond to agriculture is unwavering.

The 125th anniversary celebration will be held July 24, 2010, kicking off with Ghost Parade. More activities include a road race, Jaws of Life demonstration, antique/history display, supper pie auction and a dance. People of all ages will be able to take part in the day's activities.

I am proud to publicly congratulate the community on this achievement. As the people of Fedora take this opportunity to appreciate and reflect on how far the town has come from its beginnings, I know they understand the important role Fedora plays in making South Dakota a great State to live.●

SOUTH DAKOTA STATE FAIR QUASQUICENTENNIAL

● Mr. JOHNSON. Mr. President, it is with great honor that today I recognize the 125th anniversary of the South Dakota State Fair. This quasquicentennial is meaningful to the citizens of South Dakota, as many visit this event each year for entertainment, competition and great company. Whether it is the 4–H competitions, carnival rides, live music, informational booths or the many commercial vendors there is something for everyone at the State fair.

From its humble beginnings, the State fair started with only 85 acres of land that was deeded to the State of South Dakota by the Chicago and Northwestern Railway Company for $50,000. With time, the fair grew as the South Dakota population grew. More land has been purchased, buildings have been constructed, and several improvements have been made. Today, the grounds host a wide range of buildings from the 4–H livestock complex to grandstands. Although changes have been made to fair ground's landscape since its founding, the South Dakota State Fair has stayed true to its mission, which is to have the fairgrounds be seen as a successful year-round, family-friendly venue that showcases youth, achievement, agriculture and community.

September 2–6, 2010, South Dakotans from across the State will gather at the State fairgrounds in Huron to celebrate 125 years of our State's history. With live entertainment, livestock events, the South Dakota Outdoor Expo, and more, all ages will celebrate in the day's activities. I hope this celebration gives our citizens a chance to reflect on our shared State history, as well as our promising future.

As frequent visitor to the South Dakota State Fair, I congratulate the South Dakota State Fair on reaching this monumental anniversary, and I look forward to the future as the fair continues to prosper.●

VIENNA, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I recognize the town of Vienna, SD, on reaching its 125th anniversary. Throughout its history, this small, rural community in Clark County has faced many hardships yet it still remains a strong town, and I congratulate the people of Vienna for all that they have accomplished.

Vienna was founded in 1887 along the Milwaukee railroad. Named by the Austrian founders after Vienna, Austria, this small town quickly grew as a result of daily freight and passenger trains. Unfortunately, a fire in 1913 destroyed six buildings on Main Street, slowing down the progress of the town. However, Vienna persevered and rebuilt two brick buildings which housed a meat market and a drug store. In 1937, a new elevator was built by the Vienna Grain Company, which greatly enhanced the community.

Residents of Vienna will kick off their July 30–August 1 celebration with a lawnmower only poker run followed by the Fireman Olympics, threshing bee, all-school reunion, dance, and conclude with a Sunday morning service at Bethlehem Lutheran Church. I am proud to honor Vienna, a town that contributes so much to the identity of rural South Dakota, for its historic milestone.●

ARKANSAS'S FARM FAMILIES

● Mrs. LINCOLN. Mr. President, today I recognize eight Arkansas families who were recently selected as district winners of the Arkansas Farm Bureau's 64th Annual Farm Family of the Year program. This year's winners are:

Michael and Sarah Oxner of Searcy (White County) in the East Central District. The Oxners own Red River Farms, where they grow 2,700 acres of rice, 2,100 acres of soybeans, 300 acres of corn, 280 acres of cotton and 700 acres of moist soil, millet, and native grasses for wildlife. They have three children, Mary, Laura, and Paten.

Mark and Nancy Satterfield of Norfork (Baxter County) in the North Central District. The Satterfields are registered seed stock producers of Charolais and Angus cattle with a production herd of 110 cows. They have had champion bulls and females in both Arkansas and Missouri. They have two children, Taylor and Justin.

Lammers Farms Partnership located in Manila (Mississippi County) in the Northeast District. Lammers Farms Partnership is a family operation with three generations of farmers. Louis and Carol Lammers, their children Jeff Lammers and Laura Weiss, and their respective families, are partners of Lammers Farm. Louis and Carol Lammers also have seven grandchildren. On 6,662 acres, Lammers Farms grows 530 acres of irrigated upland cotton, 1,072 acres of nonirrigated upland cotton, 2,060 acres of long grain rice, 80 acres of grain sorghum, 1,207 acres of irrigated soybeans, 742 acres of nonirrigated soybeans and 971 acres dedicated to the Conservation Reserve Program. Lammers Farms Partnership also owns a grain storage facility in Blytheville that is currently leased to Riceland.

Randy and Anjie Cockrum of Rudy (Crawford County) in the Northwest District. Randy and Anjie Cockrum have 578 acres, 400 of which produce hay. They also have 160 cow/calf pairs and a meat processing operation. When calf prices are low the Cockrums market their calves as beef through their processing operation. They have three children, Siera, Tyler and Shelby.

Curt and Ellen Rankin of Lake Village (Chicot County) in the Southeast District. The Rankin's farm consists of 500 acres of corn, 1,950 acres of irrigated soybeans and 150 acres of nonirrigated soybeans. They have two children, Seth and Jacob.

Darrell and Jennifer Ford of Hope (Hempstead County) in the Southwest District. The Fords graze about 700 yearling calves per year. The cattle-grazing operation also provides pasture for outside farmers. The Fords own 100 cows and about 25 percent of the calves they graze. The Fords also co-own the Hope Livestock Auction, which sells roughly 45,000 head of cattle each year. They have four children, Kade, Kylan, Grace and Aubrie.

Jeremy and Leslie Allmon of Murfreesboro (Pike County) in the West Central District. The Allmons have 103 cows, 92 calves, 35 heifers, 2 bulls, 2 poultry laying houses containing approximately 28,400 hens and 100 acres of hay on their 420 acre operation. They have one child, Holden, who is 2.

Larry and Marilyn Huddleston of Waldron (Scott County) in the Western District. The Huddlestons run 100 cows, 700 stocker calves and produce hay on 1,340 acres. They have two children, Hannah and Cole.

As a seventh-generation Arkansan and farmer's daughter, and as chairman of the Senate Agriculture Committee, I understand firsthand and appreciate the hard work and contributions of our farm families. Agriculture is the backbone of Arkansas's economy, creating more than 270,000 jobs in the State and providing $9.1 billion in wages and salaries. In total, agriculture contributes roughly $15.9 billion to the Arkansas economy each year and is responsible for one out of every four Arkansas jobs.

We must work to continue the farm family tradition, so these families are able to maintain their livelihoods and continue to help provide the safe, abundant, and affordable food supply that feeds our own country and the world and that is essential to our own economic stability.

I salute all Arkansas farm families for their hard work and dedication.●

2010 TONTITOWN GRAPE FESTIVAL

● Mrs. LINCOLN. Mr. President, today I join residents of Tontitown and all Arkansans to commemorate the 2010 Tontitown Grape Festival. For 112 years, the festival has celebrated the history and heritage of this unique community nestled in the Ozark Mountains.

Like many American towns, the history of Tontitown begins with the story of immigrants. Facing high taxes and political unrest, a group of Italian farming families set sail for the United States in 1895, hoping to start a new life. Father Pietro Bandini bought a plot of land in northwest Arkansas and brought some 40 families to what would soon become Tontitown. Today, Tontitown is a culturally rich and business-friendly community, home to approximately 1,000 citizens and 100 businesses.

Every year, the Tontitown Grape Festival, sponsored by St. Joseph's Church, has welcomed visitors of all ages. The festival celebrates Tontitown's Italian heritage with live entertainment, a carnival, an arts and crafts fair, a used book sale, a Run for the Grapes, for both kids and adults, and the annual coronation of the Queen of the Festival.

I commend the residents of the Tontitown area for their commitment to the history and heritage of Arkansas. I wish them all the best as they celebrate during this year's Grape Festival.●

TRIBUTE TO SHARON CAMPBELL

● Ms. SNOWE. Mr. President, today I extend my heartfelt congratulations to Sharon Campbell, regional representative for my office in Presque Isle, ME, as she was recently honored with the prestigious Frank Hussey Award from the Presque Isle Rotary Club, named for a highly regarded former Presque Isle Rotarian.

Sharon could not be more deserving of this prestigious accolade as it recognizes her selfless commitment to Aroostook County and our great State of Maine. As I have witnessed firsthand, whether through her outstanding tenure with me which began more than a decade ago to her exceptional examples of giving back as a Rotary member, Sharon is the epitome of our State's motto, ''Dirigo or I Lead,'' many times over.

Just in the past 2 years alone, Sharon has diligently promoted greater literacy in The County, leading the Rotary's Literacy and Thesaurus Project, which distributes thesauruses to area children, and raising close to $2,000 to start a ''Children's Book of the Month Club,'' where books are purchased every month for school libraries.

Described by her Rotary peers as a ''get it done'' Rotarian, Sharon strives to make a substantive difference in the lives of others and in a way that garners lasting results. And when it comes to galvanizing support for a new task, it is helpful that people find it incredibly difficult to say ''no'' to her. By the same token, she is the last person who would say ''no'' herself to a challenge to help someone else. She is that caring and that determined. Sharon truly exemplifies the can-do spirit and tireless work-ethic that are the hallmarks of the people of Maine she serves, in particular those who proudly call The County home.

Nothing crystallizes Sharon's contributions as a Rotarian and as someone devoted to public service than the Rotary motto of ''Service Above Self.'' Her receipt of The Frank Hussey Award is an enduring testament to her dedication to that precept.●

RECOGNIZING HUGO'S

• Ms. SNOWE. Mr. President, the city of Portland, ME, is quickly becoming one of America's most recognized locations for five-star dining experiences. Recognized as the 2009 ''Foodiest Small Town in America'' by Bon Appétit, it has been reported that visitors and residents alike spend more money in Portland restaurants per capita than in any other U.S. city, with the exception of San Francisco and New York. The demand for delicious, well-prepared food has drawn a plethora of culinary artists to the city, inspired by both the challenge of cooking for an avid audience and incorporating the bounty of Maine's natural resources into their recipes. Using native ingredients such as corn, blueberries, fiddleheads, and off-the-dock seafood, Portland restaurants have transformed even casual dining into something brilliant. As such, today I wish to recognize Hugo's, one of the many restaurants that has been an integral part of this lively city's culinary renaissance.

Hugo's is among the restaurants that stay true to the Portland tradition of local and organic food. As a member of the Maine Organic Farmers and Gardeners Association, Hugo's is active in increasing local food production and simultaneously supporting other Maine small businesses. Working with these organic ingredients, Hugo's puts a modern twist on American cuisine with various international influences. They produce imaginative dishes that make the restaurant not only a favorite to the locals, but also to out-of-town ''foodies'' looking for an elegant meal as well.

Chef Rob Evans, the driving force behind Hugo's turned his restaurant job into a career after he landed positions at the famed Inn at Little Washington in Virginia and French Laundry in California, studying under some of the best chefs in the world. In 2000, Chef Evans took over the former Hugo's Portland Bistro with his wife, Nancy Pugh. Soon Hugo's became distinguished as one of the top restaurants in Maine, as well as throughout New England.

Indeed, Chef Evans's culinary creativity has not gone unnoticed by both his peers and others in the industry. In 2004 Food & Wine Magazine recognized him with the ''Best New Chef Award.'' Hugo's has also been given the Four-Diamond title by the American Automobile Association, or AAA, for the past 5 years. Most notably, Chef Evans was named the recipient last year of the James Beard Award, arguably one of the most coveted honors in the culinary world, as the best chef in the Northeast.

Since receiving the award, traffic at Hugo's has significantly increased, with more locals intrigued by what Chef Evans can do with the resources that make Maine the unique place that it is. But even with an uptick in new patrons, Chef Evans insists that Hugo's will stay the same and not forget its humble origins.

Additionally, Chef Evans and his wife Nancy are also the proud owners of Duckfat, another popular restaurant situated just down the street from Hugo's serving European fries and sandwiches. Duckfat, whose name derives from the manner in which they cook their fries, is yet another example of Evans' and Pugh's efforts to promote all that Maine's restaurant industry has to offer.

Hugo's is an excellent representative of a trend in Maine's dining culture that showcases a wide variety of exciting, creative chefs and restaurants eager to put Maine on the map when it comes to food. The initiatives of Rob Evans and Nancy Pugh have helped foster a revitalization of Portland's restaurant scene, and I commend them for their outstanding work. I thank everyone at both Hugo's and Duckfat, and wish them much success in their future endeavors.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:37 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 415. An act to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty.

H.R. 2780. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes.

H.R. 5138. An act to protect children from sexual exploitation by mandating reporting requirements for convicted sex traffickers and other registered sex offenders against minors intending to engage in international travel, providing advance notice of intended travel by high interest registered sex offenders outside the United States to the government of the country of destination, requesting foreign governments to notify the United States when a known child sex offender is seeking to enter the United States, and for other purposes.

H.R. 5143. An act to establish the National Criminal Justice Commission.

H.R. 5281. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

H.R. 5662. An act to amend title 18, United States Code, with respect to the offense of stalking.

H.R. 5681. An act to improve certain administrative operations of the Library of Congress, and for other purposes.

H.R. 5682. An act to improve the operations of certain facilities and programs of the House of Representatives, and for other purposes.

H.R. 5730. An act to rescind earmarks for certain surface transportation projects.

H.R. 5810. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

H.R. 5825. An act to review, update, and revise the factors to measure the severity, magnitude, and impact of a disaster and to evaluate the need for assistance to individuals and households.

The message also announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 258. Concurrent resolution congratulating the Commandant of the Coast Guard and the Superintendent of the Coast Guard Academy and its staff for 100 years of operation of the Coast Guard Academy in New London, Connecticut, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 5849. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

The message also announced that pursuant to section 201(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), and the order of the House of January 6, 2009, the Speaker announces the following correction to the appointment of June 23, 2010, of the following member on the part of the House of Representatives to the Commission on International Religious Freedom, upon the recommendation of the Minority Leader: Mr. Ted Van Der Meid of Rochester, New York, for a two-year term ending May 14, 2012, to succeed Ms. Felice Gaer.

At 3:59 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House recedes from its amendment to the amendment of the Senate to the bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

At 6:47 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks,

announced that the House has passed the following bill, without amendment:

S. 1789. An act to restore fairness to Federal cocaine sentencing.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 415. An act to provide Capitol-flown flags to the immediate family of fire fighters, law enforcement officers, emergency medical technicians, and other rescue workers who are killed in the line of duty; to the Committee on Rules and Administration.

H.R. 2780. An act to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code; to the Committee on the Judiciary.

H.R. 4748. An act to amend the Office of National Drug Control Policy Reauthorization Act of 2006 to require a northern border counternarcotics strategy, and for other purposes; to the Committee on the Judiciary.

H.R. 5281. An act to amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes; to the Committee on the Judiciary.

H.R. 5662. An act to amend title 18, United States Code, with respect to the offense of stalking; to the Committee on the Judiciary.

H.R. 5681. An act to improve certain administrative operations of the Library of Congress, and for other purposes; to the Committee on Rules and Administration.

H.R. 5682. An act to improve the operation of certain facilities and programs of the House of Representatives, and for other purposes; to the Committee on Rules and Administration.

H.R. 5810. An act to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; to the Committee on the Judiciary.

H.R. 5825. An act to review, update, and revise the factors to measure the severity, magnitude, and impact of a disaster and to evaluate the need for assistance to individuals and households; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 258. Concurrent resolution congratulating the Commandant of the Coast Guard and the Superintendent of the Coast Guard Academy and its staff for 100 years of operation of the Coast Guard Academy in New London, Connecticut, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3657. A bill to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to objecting to any measure or matter.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3663. A bill to promote clean energy jobs and oil company accountability, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6845. A communication from the Deputy to the Chairman, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Regarding Amendment of the Temporary Liquidity Guarantee Program to Extend the Transaction Account Guarantee Program'' (RIN3064–AD37) received during adjournment of the Senate in the Office of the President of the Senate on July 23, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–6846. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Arrow Falcon Exporters, Inc.; AST, Inc.; Rotorcraft Development Corporation; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC; International Helicopters, Inc.; Northwest Rotorcraft, LLC; Robinson Air Crane, Inc.; San Joaquin Helicopters; S.M. and T. Aircraft; Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation International, Inc.; Tamarack Helicopters, Inc.; US Helicopter, Inc.; West Coast Fabrications; and Overseas Aircraft Support Inc. Model AH–1G, AH–1S, HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters; and Southwest Florida Aviation Model UH–1B (SW204 and SW204HP) and UH–1H (SW205) Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2010–0565)) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6847. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aircraft Industries a.s. (Type Certificate G60EU Previously Held by LETECKE ZAVODY a.s. and LET Aeronautical Works) Model L–13 Blanik Gliders'' ((RIN2120–AA64)(Docket No. FAA–2010–0684)) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6848. A communication from the Executive Analyst, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Administrator of the Centers for Medicare and Medicaid Services in the Department of Health and Human Services; to the Committee on Finance.

EC–6849. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Internal Claims and Appeals and External Review Processes Under the Patient Protection and Affordable Care Act'' ((RIN1545–BJ63)(TD 9494)) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Finance.

EC–6850. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a report entitled ''The Year in Trade 2009''; to the Committee on Finance.

EC–6851. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a Report to Congress on Costs of Treatment in the President's Emergency Plan for AIDS Relief (PEPFAR); to the Committee on Foreign Relations.

EC–6852. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of State (Educational and Cultural Affairs); to the Committee on Foreign Relations.

EC–6853. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, status reports relative to Iraq for the period of April 14, 2010 through June 16, 2010; to the Committee on Foreign Relations.

EC–6854. A communication from the Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priorities, Requirements, Definition, and Selection Criteria—Smaller Learning Communities'' (CFDA No. 84.215L) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–6855. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rules for Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Process Under the Patient Protection and Affordable Care Act'' (RIN1210–AB45) received during adjournment of the Senate in the Office of the President of the Senate on July 23, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–6856. A communication from the Executive Analyst (Political), Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary for Children and Families in the Department of Health and Human Services, received in the Office of the President of the Senate on July 22, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–6857. A communication from the Executive Analyst (Political), Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary for Legislation in the Department of Health and Human Services, received in the Office of the President of the Senate on July 22, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–6858. A communication from the Director of Human Resources, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the category rating system; to the Committee on Health, Education, Labor, and Pensions.

EC–6859. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a proposed rule entitled ''Employee Contribution Elections and Contribution Allocations'' (5 CFR Part 1600) received in the Office of the President of the Senate on July 26, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6860. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a proposed rule entitled ''Uniformed Services Accounts and Death Benefits'' (5 CFR Parts 1604 and 1651) received in the Office of the President of the Senate on July 26, 2010; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 3267. A bill to improve the provision of assistance to fire departments, and for other purposes (Rept. No. 111—235).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 3516. A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes (Rept. No. 111—236).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 5278. A bill to designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the ''President Ronald W. Reagan Post Office Building''.

H.R. 5395. A bill to designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the ''Paula Hawkins Post Office Building''.

S. 3567. A bill to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the ''Navy Corpsman Jeffrey L. Wiener Post Office Building''.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

Steve A. Linick, of Virginia, to be Inspector General of the Federal Housing Finance Agency.

Osvaldo Luis Gratacós Munet, of Puerto Rico, to be Inspector General, Export-Import Bank.

*Peter A. Diamond, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2000.

*Sarah Bloom Raskin, of Maryland, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2002.

*Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2010.

*Janet L. Yellen, of California, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAPO (for himself, Mr. BARRASSO, Mr. ENSIGN, Mr. ENZI, Mr. HATCH, Ms. MURKOWSKI, Mr. RISCH, and Mr. ROBERTS):

S. 3660. A bill to amend the Act of June 8, 1906, to require certain procedures for designating national monuments, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself, Ms. MIKULSKI, Mr. KERRY, and Mr. CARDIN):

S. 3661. A bill to amend the Federal Water Pollution Control Act to ensure the safe and proper use of dispersants in the event of an oil spill or release of hazardous substances, and for other purposes; to the Committee on Environment and Public Works.

By Ms. STABENOW:

S. 3662. A bill to require the President to prepare a quadrennial National Manufacturing Strategy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 3663. A bill to promote clean energy jobs and oil company accountability, and for other purposes; read the first time.

By Mrs. FEINSTEIN (for herself, Mr. CRAPO, Mr. UDALL of Colorado, Mr. BENNET, and Mrs. BOXER):

S. 3664. A bill to amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WHITEHOUSE (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. CASEY, Mr. REED, Mrs. MURRAY, Mr. KERRY, Mr. WYDEN, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. WARNER, Mr. MERKLEY, Mr. MENENDEZ, Ms. LANDRIEU, Mr. SCHUMER, Mr. NELSON of Florida, Mr. KAUFMAN, Ms. COLLINS, Mr. GREGG, Mr. WEBB, and Mrs. BOXER):

S. Res. 596. A resolution to designate September 25, 2010, as ''National Estuaries Day''; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. BAYH, Mr. BENNETT, Mrs. BOXER, Mr. BURR, Mr. BURRIS, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CRAPO, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. JOHANNS, Mr. KERRY, Ms. LANDRIEU, Mr. LUGAR, Mr. SCHUMER, Mr. SHELBY, Mr. SPECTER, Mr. TESTER, and Mr. VITTER):

S. Res. 597. A resolution designating September 2010 as ''National Prostate Cancer Awareness Month''; to the Committee on the Judiciary.

By Mr. BURR (for himself and Mrs. FEINSTEIN):

S. Res. 598. A resolution designating September 2010 as ''National Child Awareness Month'' to promote awareness of charities benefitting children and youth-serving organizations throughout the United States and recognizing efforts made by these charities and organizations on behalf of children and youth as critical contributions to the future of the Nation; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. REED, Mr. REID, Mrs. HAGAN, Mr. BURR, Mrs. LINCOLN, Mr. VOINOVICH, Mr. INHOFE, Mr. CRAPO, Ms. SNOWE, Mr. BAUCUS, Mr. ISAKSON, Mr. BEGICH, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Mr. THUNE, Mr. AKAKA, Mr. BURRIS, Mr. SESSIONS, Mr. ROBERTS, Mr. WHITEHOUSE, Mr. BOND, Mr. BENNETT, Ms. LANDRIEU, Mr. CHAMBLISS, Mr. INOUYE, and Mr. CORKER):

S. Res. 599. A resolution designating August 16, 2010, as ''National Airborne Day''; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 600. A resolution to authorize document production and testimony by, and representation of, the Select Committee on Intelligence; considered and agreed to.

By Mr. ENZI:

S. Con. Res. 69. A concurrent resolution recognizing the 500th anniversary of the birth of Italian architect Andrea Palladio; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 322

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes.

S. 379

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 379, a bill to provide fair compensation to artists for use of their sound recordings.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 1553, supra.

S. 2828

At the request of Mr. KERRY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 2828, a bill to amend the Public Health Service Act to authorize the National Institute of Environmental Health Sciences to conduct a research program on endocrine disruption, to prevent and reduce the production of, and exposure to, chemicals that can undermine the development of children before they are born and cause lifelong impairment to their health and function, and for other purposes.

S. 2982

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 2982, a bill to combat international violence against women and girls.

S. 3231

At the request of Mr. GRASSLEY, the name of the Senator from Missouri

(Mr. BOND) was added as a cosponsor of S. 3231, a bill to amend the Internal Revenue Code of 1986 to extend certain tax incentives for alcohol used as fuel and to amend the Harmonized Tariff Schedule of the United States to extend additional duties on ethanol.

S. 3232

At the request of Mr. BURR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3232, a bill to amend the Internal Revenue Code of 1986 to make employers of spouses of military personnel eligible for the work opportunity credit.

S. 3424

At the request of Mr. DURBIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3501

At the request of Mr. HATCH, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. ROBERTS), the Senator from Mississippi (Mr. WICKER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 3501, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 3502

At the request of Mr. HATCH, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Kansas (Mr. ROBERTS), the Senator from Mississippi (Mr. WICKER) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 3502, a bill to restore Americans' individual liberty by striking the Federal mandate to purchase insurance.

S. 3528

At the request of Ms. SNOWE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3528, a bill to promote coastal jobs creation, promote sustainable fisheries and fishing communities, revitalize waterfronts, and for other purposes.

S. 3578

At the request of Mr. JOHANNS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 3578, a bill to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

S. 3583

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3583, a bill to amend title 38, United States Code, to increase flexibility in payments for State veterans homes, and for other purposes.

S. 3640

At the request of Mr. UDALL of Colorado, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3640, a bill to amend the Internal Revenue Code of 1986 to increase the limitations on the amount excluded from the gross estate with respect to land subject to a qualified conservation easement.

S. 3647

At the request of Mr. TESTER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 3647, a bill to amend the Public Health Service Act to provide for the participation of particular specialists determined by the Secretary of Health and Human Services to be directly related to the health needs stemming from environmental health hazards that have led to its declaration as a Public Health Emergency to be eligible under the National Health Service Corps in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 3653

At the request of Mr. CORNYN, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 3653, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

S. RES. 579

At the request of Mr. BROWNBACK, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 579, a resolution honoring the life of Manute Bol and expressing the condolences of the Senate on his passing.

AMENDMENT NO. 4527

At the request of Mr. JOHANNS, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Kansas (Mr. ROBERTS), the Senator from Kansas (Mr. BROWNBACK), the Senator from Idaho (Mr. RISCH), the Senator from Wyoming (Mr. BARRASSO), the Senator from Wyoming (Mr. ENZI), the Senator from Idaho (Mr. CRAPO) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 4527 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4531

At the request of Mr. JOHANNS, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Kansas (Mr. ROBERTS), the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. GRAHAM) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of amendment No. 4531 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 3663. A bill to promote clean energy jobs and oil company accountability, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Energy Jobs and Oil Company Accountability Act of 2010''.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 6 divisions as follows:

(1) Division A—Oil Spill Response and Accountability.

(2) Division B—Reducing Oil Consumption and Improving Energy Security.

(3) Division C—Clean Energy Jobs and Consumer Savings.

(4) Division D—Protecting the Environment.

(5) Division E—Fiscal Responsibility.

(5) Division F—Miscellaneous.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

DIVISION A—OIL SPILL RESPONSE AND ACCOUNTABILITY

TITLE I—REMOVAL OF LIMITS ON LIABILITY FOR OFFSHORE FACILITIES

SEC. 101. SHORT TITLE.

This title may be cited as the ''Big Oil Bailout Prevention Unlimited Liability Act of 2010''.

SEC. 102. REMOVAL OF LIMITS ON LIABILITY FOR OFFSHORE FACILITIES.

(a) IN GENERAL.—Section 1004(a)(3) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(3)) is amended by striking ''plus $75,000,000'' and inserting ''and the liability of the responsible party under section 1002''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to all claims or actions brought within the limitations period applicable to the claims or action, including any claims or actions pending on the date of enactment of this Act and any

claims arising from events occurring prior to the date of enactment of this Act.

SEC. 103. CLAIMS PROCEDURE.

(a) WAITING PERIOD.—Section 1013(c)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2713(c)(2)) is amended by striking ''settled by any person by payment within 90 days'' and inserting ''settled in whole by any person by payment within 30 days''.

(b) PROCESSING OF CLAIMS.—Section 1012(a)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4)) is amended by inserting before the semicolon at the end the following: ''and, in the event of a spill of national significance, administrative and personnel costs to process claims (including the costs of commercial claims processing, expert services, training, and technical services)''.

SEC. 104. OIL AND HAZARDOUS SUBSTANCE RESPONSE PLANNING.

(a) AREA COMMITTEES.—Section 311(j)(4)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)(A)) is amended—

(1) by striking ''from qualified'' and inserting ''from—

''(i) qualified'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(ii) individuals representing industry, conservation, and the general public.''.

(b) NATIONAL RESPONSE SYSTEM.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)) is amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) The President shall ensure that the regulations promulgated pursuant to this paragraph are designed to prevent, to the maximum extent practicable, injury to the economy, jobs, and the environment, including to prevent—

''(I) loss of, destruction of, or injury to, real or personal property;

''(II) loss of subsistence use of natural resources;

''(III) loss of revenue;

''(IV) loss of profits or earning capacity;

''(V) an increase in the cost of providing public services to remove a discharge; and

''(VI) loss of, destruction of, or injury to, natural resources.

''(iv) The President shall promulgate regulations that clarify the requirements of a response plan in accordance with subparagraph (D).'';

(2) by striking subparagraph (D) and inserting the following:

''(D) A response plan required under this paragraph shall—

''(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

''(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

''(iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment in the quantities necessary, staged and available in the appropriate region to respond immediately to and sustain the response effort for as long as necessary—

''(I) to remove, to the maximum extent practicable, a worst-case discharge (including a discharge resulting from fire or an explosion);

''(II) to mitigate damage from a discharge; and

''(III) to prevent or reduce a substantial threat of such a discharge;

''(iv) demonstrate, to the maximum extent practicable, the financial capability to pay for removal costs and damages;

''(v) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to meet the requirements of this subparagraph;

''(vi) describe the environmental effects of the response plan methodologies and equipment;

''(vii) describe the process for communication and coordination with Federal, State, and local agencies before, during, and after a response to a discharge;

''(viii) identify the effective daily recovery capacity for the quantity of oil or hazardous substance that will be removed under the response plan immediately following the discharge and at regular, identified periods;

''(ix) in the case of oil production, drilling, and workover facilities, describe the specific measures to be used in response to a blowout or other event involving loss of well control;

''(x) identify provisions for the owner or operator of a tank vessel, nontank vessel, or facility to report the actual quantity of oil or a hazardous substance removed at regular, identified periods following the discharge;

''(xi) identify potential economic and ecological impacts of a worst-case discharge and response activities to prevent or mitigate, to the maximum extent practicable, those impacts in the event of a discharge;

''(xii) be updated periodically; and

''(xiii) be resubmitted for approval of each significant change.'';

(3) in subparagraph (E), by striking clauses (i) through (v) and inserting the following:

''(i) require notice of a new proposed response plan or significant modification to an existing response plan for an offshore facility to be published in the Federal Register and provide for a public comment period for the plan of at least 30 days, taking into appropriate consideration security concerns and any proprietary issues otherwise provided by law;

''(ii) promptly review the response plan;

''(iii) require amendments to any plan that does not meet the requirements of this paragraph;

''(iv) approve any plan only after finding, based on evidence in the record, that—

''(I) the response plan meets the requirements of subparagraph (D);

''(II) the methods and equipment proposed to be used under the response plan are demonstrated to be technologically feasible in the area and under the conditions in which the tank vessel, nontank vessel, or facility is proposed to operate;

''(III) the available scientific information about the area allows for identification of potential impacts to ecological areas and protection of those areas in the event of a discharge, including adequate surveys of wildlife; and

''(IV) the response plan describes the quantity of oil likely to be removed in the event of a worst-case discharge;

''(v) obtain the written concurrence of such other agencies as the President determines have a significant responsibility to remove, mitigate damage from, or prevent or reduce a substantial threat of the worst-case discharge of oil or a hazardous substance;

''(vi) review each plan periodically thereafter and require each plan to be updated not less often than once every 5 years, with each update considered a significant change requiring approval by the President;

''(vii) require an update of a plan pursuant to clause (vi) to include the best available technology and methods to contain and remove, to the maximum extent practicable, a worst-case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge; and

''(viii) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on August 9, 2004, and ensure consistency to the maximum extent practicable.''; and

(4) by adding at the end the following:

''(J) TECHNOLOGY STANDARDS.—The President may establish requirements and guidance for using the best available technology and methods in response plans, which shall be based on performance metrics and standards whenever practicable.

''(K) APPROVAL OF EXISTING PLANS.—

''(i) IN GENERAL.—The President shall—

''(I) implement an expedited review process of all response plans that were valid and approved on the day before the date of enactment of this subparagraph to identify those response plans that do not meet the requirements of this section; and

''(II) require those response plans to be amended to conform to the requirements of this section as soon as practicable after the date of enactment of this subparagraph.

''(ii) EXISTING PLANS.—Notwithstanding any other provision of this section, a response plan that was valid and approved on the day before the date of enactment of this subparagraph—

''(I) shall remain valid and approved until required to be updated pursuant to clause (i); and

''(II) shall not be found not to be valid and approved as a result of the enactment of this subparagraph.

''(iii) PUBLIC NOTICE.—The President shall provide public notice of the process for updating response plans required by clause (i).''.

(c) DEFINITIONS.—Section 311(a)(24)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(24)(B)) is amended by inserting '', including from an unanticipated and uncontrolled blowout or other loss of well control,'' after ''foreseeable discharge''.

SEC. 105. REPORTS.

Not later than 180 days after the date of enactment of this Act and every 90 days thereafter until all claims resulting from the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred April 20, 2010, and resulting hydrocarbon releases into the environment, have been paid, the administrator of the fund described in paragraph (1) shall submit to Congress a report that describes—

(1) the status of the compensation fund established by British Petroleum Company to pay claims resulting from the blowout and explosion; and

(2) each claim that has been paid from that fund.

SEC. 106. TRUST FUND ADVANCE AUTHORITY.

Section 6002(b)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)(2)) is amended by striking ''the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon,'' and inserting ''a spill of national significance,''.

TITLE II—FEDERAL RESEARCH AND TECHNOLOGIES FOR OIL SPILL PREVENTION AND RESPONSE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Federal Research and Technologies for Oil Spill Prevention and Response Act of 2010''.

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to maintain and enhance the world-class research and facilities of the Federal Government; and

(2) to ensure that there are adequate knowledge, practices, and technologies to detect, respond to, contain, and clean up oil

spills, whether onshore or on the outer Continental Shelf.

SEC. 203. INTERAGENCY COMMITTEE.

Section 7001(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(b)) is amended by striking paragraph (4) and inserting the following:

''(4) CHAIRMAN.—

''(A) IN GENERAL.—A representative of the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, Coast Guard, or the Department of the Interior shall serve as Chairman of the Interagency Committee (referred to in this section as the 'Chairman').

''(B) ROTATION.—The responsibility to chair the Interagency Committee shall rotate between representatives of each of the agencies described in subparagraph (A) every 2 years.''.

SEC. 204. SCIENCE AND TECHNOLOGY ADVICE AND GUIDANCE.

Section 7001(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(b)) is amended by striking paragraph (2) and inserting the following:

''(2) SCIENCE AND TECHNOLOGY ADVISORY BOARD.—

''(A) IN GENERAL.—The Chairman shall enter into appropriate arrangements with the National Academy of Sciences to establish an independent committee, to be known as the 'Science and Technology Advisory Board', to provide scientific and technical advice to the Interagency Committee relating to research carried out pursuant to the program established under subsection (c), including—

''(i) the identification of knowledge gaps that the program should address;

''(ii) the establishment of scientific and technical priorities;

''(iii) the provision of advice and guidance in the preparation of—

''(I) the report required under paragraph (3);

''(II) the update required under paragraph (4); and

''(III) the plan required under subsection (c)(14); and

''(iv) an annual review of the results and effectiveness of the program, including successful technology development.

''(B) REPORTS.—Reports and recommendations of the Board shall promptly be made available to Congress and the public.

''(C) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to activities of the Interagency Committee under this section.

''(3) REPORTS ON CURRENT STATE OF OIL SPILL PREVENTION AND RESPONSE CAPABILITIES.—

''(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this paragraph, the Interagency Committee shall submit to Congress a report on the current state of oil spill prevention and response capabilities that—

''(i) identifies current research programs conducted by governments, institutions of higher education, and corporate entities;

''(ii) assesses the current status of knowledge on oil pollution prevention, response, and mitigation technologies;

''(iii) identifies regional oil pollution research needs and priorities for a coordinated program of research at the regional level developed in consultation with State and local governments and Indian tribes;

''(iv) assesses the current state of spill response equipment, and determines areas in need of improvement, including the quantity, age, quality, and effectiveness of the equipment and necessary technological improvements;

''(v) assesses the current state of real-time data available to mariners, including water level, currents, weather information, and predictions, and assesses whether lack of timely information increases the risk of discharges of oil;

''(vi) assesses the capacity of the National Oceanic and Atmospheric Administration to respond, restore, and rehabilitate marine sanctuaries, monuments, sea turtles, and other protected species;

''(vii) establishes goals for improved oil discharge prevention and response on which to target research for the following 5-year period before the next report is submitted under subparagraph (B); and

''(viii) includes such recommendations as the Committee considers appropriate.

''(B) QUINQUENNIAL UPDATES.—The Interagency Committee shall submit a report every fifth year after the first report of the Interagency Committee submitted under subparagraph (A) that updates the information contained in the previous report of the Interagency Committee under this paragraph.

''(4) IMPLEMENTATION PLAN UPDATE.—Not later than 1 year after the date of enactment of this paragraph, the Interagency Committee shall update the implementation plan required under paragraph (1) to reflect the findings of the report required under paragraph (3) and the requirements of this title.

''(5) ADDITIONAL ADVICE AND GUIDANCE.—In carrying out the duties of the Interagency Committee under this title, the Interagency Committee shall accept comments and input from State and local governments, Indian tribes, industry representatives, and other stakeholders.''.

SEC. 205. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Section 7001(c) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (C), by striking ''and bioremediation'' and inserting ''bioremediation, containment vessels, booms, and skimmers, particularly under worst-case release scenarios'';

(B) by striking subparagraph (H) and inserting the following:

''(H) research and development of methods to respond to, restore, and rehabilitate natural resources and ecosystem health and services damaged by oil discharges;'';

(C) in subparagraph (I), by striking ''and'' at the end;

(D) by redesignating subparagraph (J) as subparagraph (L); and

(E) by inserting after subparagraph (I) the following:

''(J) research, development, and demonstration of new or improved technologies and systems to contain, respond to, and clean up a discharge of oil in extreme or harsh conditions on the outer Continental Shelf;

''(K) research to evaluate the relative effectiveness and environmental impacts (including human and environmental toxicity) of dispersants; and'';

(2) by striking paragraphs (8) and (9);

(3) by redesignating paragraphs (3) through (7) and (10) and (11) as paragraphs (4) through (8) and (11) and (12), respectively;

(4) by inserting after paragraph (2) the following:

''(3) AUTHORIZATION OF AGENCY OIL DISCHARGE RESEARCH AND DEVELOPMENT PROGRAMS.—

''(A) IN GENERAL.—The Secretary of the Interior, in coordination with the program established under this subsection, the Interagency Committee, and such other agencies as the President may designate, shall carry out a program of research, development, technology demonstration, and risk assessment to address issues associated with the detection of, response to, and mitigation and cleanup of discharges of oil occurring on Federal land managed by the Department of the Interior, whether onshore or on the outer Continental Shelf.

''(B) SPECIFIC AREAS OF FOCUS.—The program established under this paragraph shall provide for research, development, demonstration, validation, personnel training, and other activities relating to new and improved technologies that are effective at preventing or mitigating oil discharges and that protect the environment, including technologies, materials, methods, and practices—

''(i) to detect the release of hydrocarbons from leaking exploration or production equipment;

''(ii) to characterize the rates of flow from leaking exploration and production equipment in locations that are remote or difficult to access;

''(iii) to protect the safety of workers addressing hydrocarbon releases from exploration and production equipment;

''(iv) to control or contain the release of hydrocarbons from a blowout or other loss of well control; and

''(v) in coordination with the Administrator and the Secretary of Commerce, for environmental assessment, restoration, and long-term monitoring.'';

(5) in paragraph (5) (as redesignated by paragraph (3))—

(A) by striking subparagraphs (B) and (C);

(B) in the matter preceding clause (i), by striking ''(A) The Committee'' and inserting ''The Department of Commerce, in coordination with the Environmental Protection Agency and the Department of the Interior,'';

(C) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively;

(D) in subparagraph (A) (as redesignated by subparagraphs (C)), by striking the period at the end and inserting the following: '', including—

''(i) fundamental scientific characterization of the behavior of oil and natural gas in and on soil and water, including miscibility, plume behavior, emulsification, physical separation, and chemical and biological degradation;

''(ii) behavior and effects of emulsified, dispersed, and submerged oil in water; and

''(iii) modeling, simulation, and prediction of oil flows from releases and the trajectories of releases on the surface, the subsurface, and in water.''; and

(E) by adding at the end the following:

''(E) The evaluation of direct and indirect environmental effects of acute and chronic oil discharges on natural resources, including impacts on marine sanctuaries and monuments, protected areas, and protected species.

''(F) The monitoring, modeling, and evaluation of the near- and long-term effects of major spills and long-term cumulative effects of smaller endemic spills.'';

(6) in paragraph (6) (as redesignated by paragraph (3))—

(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) by striking ''The United States Coast Guard'' and inserting the following:

''(A) IN GENERAL.—The Coast Guard''; and

(C) by adding at the end the following:

''(B) EXTREME ENVIRONMENTAL CONDITION DEMONSTRATION PROJECTS.—

''(i) IN GENERAL.—The Secretary of the Interior, in conjunction with the heads of such other agencies as the President may designate, shall conduct deepwater, ultra deepwater, and other extreme environment oil

discharge response demonstration projects for the purpose of developing and demonstrating new integrated deepwater oil discharge mitigation and response systems that use the information and implement the improved practices and technologies developed through the program under this subsection.

''(ii) REQUIREMENTS.—The mitigation and response systems developed under clause (i) shall use technologies and management practices for improving the response capabilities to deepwater oil discharges, including—

''(I) improved oil flow monitoring and calculation;

''(II) improved oil discharge response capability;

''(III) improved subsurface mitigation technologies;

''(IV) improved capability to track and predict the flow and effects of oil discharges in both subsurface and surface areas for the purposes of making oil mitigation and response decisions; and

''(V) any other activities necessary to achieve the purposes of the program.'';

(7) by inserting after paragraph (8) (as redesignated by paragraph (3)) the following:

''(9) RESEARCH CENTERS OF EXCELLENCE.—

''(A) RESPONSE TECHNOLOGIES FOR DEEPWATER, ULTRA DEEPWATER, AND OTHER EXTREME ENVIRONMENT OIL DISCHARGES.—

''(i) ESTABLISHMENT.—The Secretary of the Interior shall establish at 1 or more institutions of higher education a research center of excellence for the research, development, and demonstration of technologies necessary to respond to, contain, mitigate, and clean up deepwater, ultra deepwater, and other extreme-environment discharges of oil.

''(ii) GRANTS.—The Secretary shall provide grants to the research center of excellence established under clause (i) to conduct and oversee basic and applied research in the technologies described in that clause.

''(B) OIL DISCHARGE RESPONSE AND RESTORATION.—

''(i) ESTABLISHMENT.—The Undersecretary of Commerce for Oceans and Atmosphere, in coordination with the Administrator and the Secretary of the Interior, shall establish at 1 or more institutions of higher education a research center of excellence for research and innovation in the fate of, behavior and effects of, and damage assessment and restoration relating to discharges of oil.

''(ii) GRANTS.—The Undersecretary of Commerce for Oceans and Atmosphere shall provide grants to the research center of excellence established under clause (i) to conduct and oversee basic and applied research in the areas described in that clause.

''(C) OTHER RESEARCH CENTERS OF EXCELLENCE.—Any agency that is a member of the Interagency Committee may establish such other research centers of excellence as the agency determines to be necessary for the research, development, and demonstration of technologies necessary to carry out the program established under this subsection.

''(10) PILOT PROGRAM.—

''(A) IN GENERAL.—The Secretary of the Interior, the Commandant of the Coast Guard, and the Administrator shall jointly conduct a pilot program to conduct field tests, in the waters of the United States, of new oil discharge response, mitigation, and cleanup technologies developed under the program established under this subsection.

''(B) RESULTS.—The results of the field tests conducted under subparagraph (A) shall be used—

''(i) to refine oil discharge technology research and development; and

''(ii) to assist the Secretary of the Interior, the Commandant of the Coast Guard, and the Administrator in the development of safety and environmental regulations under this Act and other applicable laws.'';

(8) by striking paragraph (11) (as redesignated by paragraph (3)) and inserting the following:

''(11) GRANTS.—

''(A) IN GENERAL.—In carrying out the research and development program established under this subsection, the Department of the Interior, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the Coast Guard shall each establish a program to enter into contracts and cooperative agreements and make competitive grants to institutions of higher education, National Laboratories, research institutions, other persons, or groups of institutions of higher education, research institutions, and other persons, for the purposes of conducting the program established under this subsection.

''(B) APPLICATIONS AND CONDITIONS.—In carrying out this paragraph, each agency—

''(i) shall establish a notification and application procedure;

''(ii) may establish such conditions and require such assurances as may be appropriate to ensure the efficiency and integrity of the grant program; and

''(iii) may make grants under the program on a matching or nonmatching basis.

''(C) PRIORITIES.—Contracts, cooperative agreements, and grants provided under this subparagraph shall address research and technology priorities described in the research and technology plan required under paragraph (13).''; and

(9) by adding at the end the following:

''(13) RESEARCH AND TECHNOLOGY PLAN.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, and every 2 years thereafter, the Interagency Committee shall develop and publish a research and technology plan for the program established under this subsection.

''(B) CONTENTS.—The plan under this paragraph shall—

''(i) identify research needs and opportunities;

''(ii) propose areas of focus for the program;

''(iii) establish program priorities, including priorities for—

''(I) demonstration projects under paragraph (7);

''(II) the research centers of excellence under paragraph (9); and

''(III) research funding provided under paragraph (11); and

''(iv) estimate—

''(I) the extent of resources needed to conduct the program; and

''(II) timetables for completing research tasks under the program.

''(C) PUBLICATION.—The Interagency Committee shall timely publish—

''(i) the plan under this paragraph; and

''(ii) a review of the plan by the Board.

''(14) PEER REVIEW OF PROPOSALS AND RESEARCH.—

''(A) IN GENERAL.—Any provision of funds under the program established under this subsection shall be made only after the agency providing the funding has carried out an impartial peer review of the scientific and technical merit of the proposals for the funding.

''(B) REQUIREMENTS.—The agency providing funding shall ensure that any research conducted under the program shall be peer-reviewed, transparent, and made available to the public.

''(15) FUNDING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (E), of amounts in the Oil Spill Liability Trust Fund, $25,000,000 for each of fiscal years 2010 through 2020 shall be available, without further appropriation and without fiscal year limitation, to carry out the program under this section.

''(B) ANNUAL EXPENDITURE PLAN.—

''(i) IN GENERAL.—The President shall transmit, as part of the annual budget proposal, a plan for the expenditure of funds under this paragraph.

''(ii) RESEARCH AND TECHNOLOGY PLAN.—The plan developed pursuant to clause (i) shall be consistent with the research and technology plan developed under paragraph (13).

''(C) AVAILABILITY OF AMOUNTS.—On the date that is 15 days after the date on which the Congress adjourns sine die for each year, amounts shall be made available from the Oil Spill Liability Trust Fund, without further appropriation, for the programs and projects in the expenditure plan of the President, unless prior to that date, a law is enacted establishing a different expenditure plan.

''(D) ALTERNATE EXPENDITURE PLAN.—If Congress enacts a law establishing an alternate expenditure plan and the expenditure plan provides for less than the annual funding amount under subparagraph (A), the difference between the annual funding amount and the alternate expenditure plan shall be available for expenditure, without further appropriation, in accordance with the expenditure plan submitted by the President.

''(E) ROLE OF INTERAGENCY COMMITTEE.—In developing the annual expenditure plan under subparagraph (B), the President shall consider the recommendations of the Interagency Committee.''.

(b) FUNDING.—Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended by striking subsection (f) and inserting the following:

''(f) FUNDING.—

''(1) IN GENERAL.—In addition to amounts made available subsection (c)(15), not to exceed $20,000,000 of the amounts in the Fund shall be available each fiscal year to each of the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Secretary of the Interior to carry out this section.

''(2) APPROPRIATIONS.—Funding authorized under paragraph (1) shall be subject to appropriations.''.

(c) USES OF OIL SPILL LIABILITY TRUST FUND.—Section 1012(a)(5)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)) is amended—

(1) by striking ''$25,000,000'' and inserting ''$50,000,000''; and

(2) by inserting before the semicolon at the end the following: '', of which not less than 40 percent shall be used each fiscal year to conduct research, development, and evaluation of oil spill response and removal technologies and methods consistent with the research and technology plan developed under section 7001(c)(13)''.

TITLE III—OUTER CONTINENTAL SHELF REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the ''Outer Continental Shelf Reform Act of 2010''.

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the management of the outer Continental Shelf in order to improve the management, oversight, accountability, safety, and environmental protection of all the resources on the outer Continental Shelf;

(2) to provide independent development and enforcement of safety and environmental laws (including regulations) governing—

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

(3) to ensure a fair return to the taxpayer from, and independent management of, royalty and revenue collection and disbursement activities from mineral and energy resources.

SEC. 303. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF.—The term ''outer Continental Shelf'' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 304. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that—

''(A) recognizes the need of the United States for domestic sources of energy, food, minerals, and other resources;

''(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

''(C) acknowledges the long-term economic value to the United States of the balanced and orderly management of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;'';

(2) in paragraph (4)(C), by striking the period at the end and inserting a semicolon;

(3) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(4) by redesignating paragraph (6) as paragraph (7);

(5) by inserting after paragraph (5) the following:

''(6) exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that provides reasonable assurance of adequate protection against harm to life, health, the environment, property, or other users of the waters, seabed, or subsoil; and''; and

(6) in paragraph (7) (as so redesignated)—

(A) by striking ''should be'' and inserting ''shall be''; and

(B) by adding ''best available'' after ''using''.

SEC. 305. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

(a) IN GENERAL.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding to the end the following:

''SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

''(a) LEASING, PERMITTING, AND REGULATION BUREAUS.—

''(1) ESTABLISHMENT OF BUREAUS.—

''(A) IN GENERAL.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior not more than 2 bureaus to carry out the leasing, permitting, and safety and environmental regulatory functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) related to the outer Continental Shelf.

''(B) CONFLICTS OF INTEREST.—In establishing the bureaus under subparagraph (A), the Secretary shall ensure, to the maximum extent practicable, that any potential organizational conflicts of interest related to leasing, revenue creation, environmental protection, and safety are eliminated.

''(2) DIRECTOR.—Each bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—Each Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—Each Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(b) ROYALTY AND REVENUE OFFICE.—

''(1) ESTABLISHMENT OF OFFICE.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior an office to carry out the royalty and revenue management functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

''(2) DIRECTOR.—The office established under paragraph (1) shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—The Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY BOARD.—

''(1) ESTABLISHMENT.—The Secretary shall establish, under the Federal Advisory Committee Act (5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the 'Board'), to provide the Secretary and the Directors of the bureaus established under this section with independent peer-reviewed scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(2) MEMBERSHIP.—

''(A) SIZE.—

''(i) IN GENERAL.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(ii) CONSULTATION.—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for membership on the Board.

''(B) TERM.—The Secretary shall appoint Board members to staggered terms of not more than 4 years, and shall not appoint a member for more than 2 consecutive terms.

''(C) CHAIR.—The Secretary shall appoint the Chair for the Board.

''(3) MEETINGS.—The Board shall—

''(A) meet not less than 3 times per year; and

''(B) at least once per year, shall host a public forum to review and assess the overall safety and environmental performance of outer Continental Shelf energy and mineral resource activities.

''(4) REPORTS.—Reports of the Board shall—

''(A) be submitted to Congress; and

''(B) made available to the public in an electronically accessible form.

''(5) TRAVEL EXPENSES.—Members of the Board, other than full-time employees of the Federal Government, while attending a meeting of the Board or while otherwise serving at the request of the Secretary or the Director while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Federal Government serving without pay.

''(d) SPECIAL PERSONNEL AUTHORITIES.—

''(1) DIRECT HIRING AUTHORITY FOR CRITICAL PERSONNEL.—

''(A) IN GENERAL.—Notwithstanding sections 3104, 3304, and 3309 through 3318 of title 5, United States Code, the Secretary may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified accountants, scientists, engineers, or critical technical personnel into the competitive service, as officers or employees of any of the organizational units established under this section.

''(B) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Secretary shall ensure that any action taken by the Secretary—

''(i) is consistent with the merit principles of chapter 23 of title 5, United States Code; and

''(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

''(2) CRITICAL PAY AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Secretary may establish, fix the compensation of, and appoint individuals to critical positions needed to carry out the functions of any of the organizational units established under this section, if the Secretary certifies that—

''(i) the positions—

''(I) require expertise of an extremely high level in a scientific or technical field; and

''(II) any of the organizational units established in this section would not successfully accomplish an important mission without such an individual; and

''(ii) exercise of the authority is necessary to recruit an individual exceptionally well qualified for the position.

''(B) LIMITATIONS.—The authority granted under subparagraph (A) shall be subject to the following conditions:

''(i) The number of critical positions authorized by subparagraph (A) may not exceed 40 at any 1 time in either of the bureaus established under this section.

''(ii) The term of an appointment under subparagraph (A) may not exceed 4 years.

''(iii) An individual appointed under subparagraph (A) may not have been an employee of the Department of the Interior during the 2-year period prior to the date of appointment.

''(iv) Total annual compensation for any individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

''(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

''(C) NOTIFICATION.—Each year, the Secretary shall submit to Congress a notification that lists each individual appointed under this paragraph.

''(3) REEMPLOYMENT OF CIVILIAN RETIREES.—

''(A) IN GENERAL.—Notwithstanding part 553 of title 5, Code of Federal Regulations (relating to reemployment of civilian retirees to meet exceptional employment needs), or successor regulations, the Secretary may approve the reemployment of an individual to a particular position without reduction or termination of annuity if the hiring of the individual is necessary to carry out a critical function of any of the organizational units established under this section for which suitably qualified candidates do not exist.

''(B) LIMITATIONS.—An annuitant hired with full salary and annuities under the authority granted by subparagraph (A)—

''(i) shall not be considered an employee for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code;

''(ii) may not elect to have retirement contributions withheld from the pay of the annuitant;

''(iii) may not use any employment under this paragraph as a basis for a supplemental or recomputed annuity; and

''(iv) may not participate in the Thrift Savings Plan under subchapter III of chapter 84 of title 5, United States Code.

''(C) LIMITATION ON TERM.—The term of employment of any individual hired under subparagraph (A) may not exceed an initial term of 2 years, with an additional 2-year appointment under exceptional circumstances.

''(e) CONTINUITY OF AUTHORITY.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference in any law, rule, regulation, directive, or instruction, or certificate or other official document, in force immediately prior to the date of enactment of this section—

''(1) to the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the appropriate bureaus and offices established under this section;

''(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the Director of the bureau or office under this section to whom the Secretary has assigned the respective duty or authority; and

''(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to that same or equivalent position in the appropriate bureau or office established under this section.''.

(b) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Bureau of Mines, Department of the Interior'' and inserting the following:

'' ''Bureau Directors, Department of the Interior (2).

'' ''Director, Royalty and Revenue Office, Department of the Interior.''.

SEC. 306. SAFETY, ENVIRONMENTAL, AND FINANCIAL REFORM OF THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) DEFINITIONS.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended by adding at the end the following:

''(r) SAFETY CASE.—The term 'safety case' means a complete set of safety documentation that provides a basis for determining whether a system is adequately safe for a given application in a given environment.''.

(b) ADMINISTRATION OF LEASING.—Section 5(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)) is amended in the second sentence—

(1) by striking ''The Secretary may at any time'' and inserting ''The Secretary shall''; and

(2) by inserting after ''provide for'' the following: ''operational safety, the protection of the marine and coastal environment,''.

(c) MAINTENANCE OF LEASES.—Section 6 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335) is amended by adding at the end the following:

''(f) REVIEW OF BOND AND SURETY AMOUNTS.—Not later than May 1, 2011, and every 5 years thereafter, the Secretary shall—

''(1) review the minimum financial responsibility requirements for mineral leases under subsection (a)(11); and

''(2) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to existing financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

''(g) PERIODIC FISCAL REVIEWS AND REPORTS.—

''(1) ROYALTY RATES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary shall carry out a review of, and prepare a report that describes—

''(i) the royalty and rental rates included in new offshore oil and gas leases and the rationale for the rates;

''(ii) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) would yield a fair return to the public while promoting the production of oil and gas resources in a timely manner; and

''(iii) whether, based on the review, the Secretary intends to modify the royalty or rental rates.

''(B) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under subparagraph (A), the Secretary shall provide to the public an opportunity to participate.

''(2) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary in consultation with the Secretary of the Treasury, shall carry out a comprehensive review of all components of the Federal offshore oil and gas fiscal system, including requirements for bonus bids, rental rates, royalties, oil and gas taxes, income taxes and other significant financial elements, and oil and gas fees.

''(B) INCLUSIONS.—The review shall include—

''(i) information and analyses comparing the offshore bonus bids, rents, royalties, taxes, and fees of the Federal Government to the offshore bonus bids, rents, royalties, taxes, and fees of other resource owners (including States and foreign countries); and

''(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

''(C) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under this paragraph, the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

''(D) REPORT.—The Secretary shall prepare a report that contains—

''(i) the contents and results of the review carried out under this paragraph for the period covered by the report; and

''(ii) any recommendations of the Secretary and the Secretary of the Treasury based on the contents and results of the review.

''(E) COMBINED REPORT.—The Secretary may combine the reports required by paragraphs (1) and (2)(D) into 1 report.

''(3) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes each report under this subsection, the Secretary shall submit copies of the report to—

''(A) the Committee on Energy and Natural Resources of the Senate;

''(B) the Committee on Finance of the Senate;

''(C) the Committee on Natural Resources of the House of Representatives; and

''(D) the Committee on Ways and Means of the House of Representatives.''.

(d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking subsection (d) and inserting the following:

''(d) DISQUALIFICATION FROM BIDDING.—No bid for a lease may be submitted by any entity that the Secretary finds, after prior public notice and opportunity for a hearing—

''(1) is not meeting due diligence, safety, or environmental requirements on other leases; or

''(2)(A) is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702); and

''(B) has failed to meet the obligations of the responsible party under that Act to provide compensation for covered removal costs and damages.''.

(e) EXPLORATION PLANS.—Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) in subsection (c)—

(A) in the fourth sentence of paragraph (1), by striking ''within thirty days of its submission'' and inserting ''by the deadline described in paragraph (5)'';

(B) by striking paragraph (3) and inserting the following:

''(3) MINIMUM REQUIREMENTS.—

''(A) IN GENERAL.—An exploration plan submitted under this subsection shall include, in such degree of detail as the Secretary by regulation may require—

''(i) a complete description and schedule of the exploration activities to be undertaken;

''(ii) a description of the equipment to be used for the exploration activities, including—

''(I) a description of the drilling unit;

''(II) a statement of the design and condition of major safety-related pieces of equipment;

''(III) a description of any new technology to be used; and

''(IV) a statement demonstrating that the equipment to be used meets the best available technology requirements under section 21(b);

''(iii) a map showing the location of each well to be drilled;

''(iv)(I) a scenario for the potential blowout of the well involving the highest expected volume of liquid hydrocarbons; and

''(II) a complete description of a response plan to control the blowout and manage the accompanying discharge of hydrocarbons, including—

''(aa) the technology and timeline for regaining control of the well; and

''(bb) the strategy, organization, and resources to be used to avoid harm to the environment and human health from hydrocarbons; and

''(v) any other information determined to be relevant by the Secretary.

''(B) DEEPWATER WELLS.—

''(i) IN GENERAL.—Before conducting exploration activities in water depths greater than 500 feet, the holder of a lease shall submit to the Secretary for approval a deepwater operations plan prepared by the lessee in accordance with this subparagraph.

''(ii) TECHNOLOGY REQUIREMENTS.—A deepwater operations plan under this subparagraph shall be based on the best available technology to ensure safety in carrying out the exploration activity and the blowout response plan.

''(iii) SYSTEMS ANALYSIS REQUIRED.—The Secretary shall not approve a deepwater operations plan under this subparagraph unless the plan includes a technical systems analysis of—

''(I) the safety of the proposed exploration activity;

''(II) the blowout prevention technology; and

''(III) the blowout and spill response plans.''; and

(C) by adding at the end the following:

''(5) DEADLINE FOR APPROVAL.—

''(A) IN GENERAL.—In the case of a lease issued under a sale held after March 17, 2010, the deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is—

''(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

''(ii) the date that is not later than an additional 180 days after the deadline described in clause (i), if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews.

''(B) EXISTING LEASES.—In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary, with the consent of the holder of the lease, may extend the deadline applicable to the lease for such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews.'';

(2) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(3) by striking subsection (d) and inserting the following:

''(d) DRILLING PERMITS.—

''(1) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit—

''(A) before the lessee drills a well in accordance with the plan; and

''(B) before the lessee significantly modifies the well design originally approved by the Secretary.

''(2) ENGINEERING REVIEW REQUIRED.—The Secretary may not grant any drilling permit until the date of completion of a full review of the well system by not less than 2 agency engineers, including a written determination that—

''(A) critical safety systems (including blowout prevention) will use best available technology; and

''(B) blowout prevention systems will include redundancy and remote triggering capability.

''(3) MODIFICATION REVIEW REQUIRED.—The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not compromise the safety of the well system previously approved.

''(4) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary may not grant any drilling permit or modification of the permit until the date of completion and approval of a safety and environmental management plan that—

''(A) is to be used by the operator during all well operations; and

''(B) includes—

''(i) a description of the expertise and experience level of crew members who will be present on the rig; and

''(ii) designation of at least 2 environmental and safety managers that—

''(I) are employees of the operator;

''(II) would be present on the rig at all times; and

''(III) have overall responsibility for the safety and environmental management of the well system and spill response plan; and

''(C) not later than May 1, 2012, requires that all employees on the rig meet the training and experience requirements under section 21(b)(4).

''(e) DISAPPROVAL OF EXPLORATION PLAN.—

''(1) IN GENERAL.—The Secretary shall disapprove an exploration plan submitted under this section if the Secretary determines that, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—

''(A) implementation of the exploration plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, mineral deposits, national security or defense, or the marine, coastal or human environments;

''(B) the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

''(C) the advantages of disapproving the exploration plan outweigh the advantages of exploration.

''(2) COMPENSATION.—If an exploration plan is disapproved under this subsection, the provisions of subparagraphs (B) and (C) of section 25(h)(2) shall apply to the lease and the plan or any modified plan, except that the reference in section 25(h)(2)(C) to a development and production plan shall be considered to be a reference to an exploration plan.''.

(f) OUTER CONTINENTAL SHELF LEASING PROGRAM.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

(1) in subsection (a)—

(A) in the second sentence, by inserting after ''national energy needs'' the following: ''and the need for the protection of the marine and coastal environment and resources'';

(B) in paragraph (1), by striking ''considers'' and inserting ''gives equal consideration to''; and

(C) in paragraph (3), by striking '', to the maximum extent practicable,'';

(2) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) provide technical review and oversight of the exploration plan and a systems review of the safety of the well design and other operational decisions;

''(6) conduct regular and thorough safety reviews and inspections, and;

''(7) enforce all applicable laws (including regulations).'';

(3) in the second sentence of subsection (d)(2), by inserting '', the head of an interested Federal agency,'' after ''Attorney General'';

(4) in the first sentence of subsection (g), by inserting before the period at the end the following: '', including existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf''; and

(5) by adding at the end the following:

''(i) RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner.

''(2) INCLUSIONS.—Research and development activities carried out under paragraph (1) may include activities to provide accurate estimates of energy and mineral reserves and potential on the outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

''(3) LEASING ACTIVITIES.—Research and development activities carried out under paragraph (1) shall not be considered to be leasing or pre-leasing activities for purposes of this Act.''.

(g) ENVIRONMENTAL STUDIES.—Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended—

(1) by redesignating subsections (a) through (f) as subsections (b) through (g), respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

''(a) COMPREHENSIVE AND INDEPENDENT STUDIES.—

''(1) IN GENERAL.—The Secretary shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of environmental and other resource data that are relevant to carrying out the purposes of this Act, including assessments under subsection (g) .

''(2) SCOPE OF RESEARCH.—The programs under this subsection shall include—

''(A) the gathering of baseline data in areas before energy or mineral resource development activities occur;

''(B) ecosystem research and monitoring studies to support integrated resource management decisions; and

''(C) the improvement of scientific understanding of the fate, transport, and effects of discharges and spilled materials, including deep water hydrocarbon spills, in the marine environment.

''(3) USE OF DATA.—The Secretary shall ensure that information from the studies carried out under this section—

''(A) informs the management of energy and mineral resources on the outer Continental Shelf including any areas under consideration for oil and gas leasing; and

''(B) contributes to a broader coordination of energy and mineral resource development activities within the context of best available science.

''(4) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the environmental studies under this section;

''(C) conduct additional environmental studies relevant to the sound management of energy and mineral resources on the outer Continental Shelf;

''(D) provide for external scientific review of studies under this section, including

through appropriate arrangements with the National Academy of Sciences; and

''(E) subject to the restrictions of subsections (g) and (h) of section 18, make available to the public studies conducted and data gathered under this section.''; and

(3) in the first sentence of subsection (b)(1) (as so redesignated), by inserting ''every 3 years'' after ''shall conduct''.

(h) SAFETY RESEARCH AND REGULATIONS.—Section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) is amended—

(1) in the first sentence of subsection (a), by striking ''Upon the date of enactment of this section,'' and inserting ''Not later than May 1, 2011, and every 3 years thereafter,'';

(2) by striking subsection (b) and inserting the following:

''(b) BEST AVAILABLE TECHNOLOGIES AND PRACTICES.—

''(1) IN GENERAL.—In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, to the maximum extent practicable, on existing operations, the use of the best available and safest technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

''(2) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES.—Not later than May 1, 2011, and not later than every 3 years thereafter, the Secretary shall identify and publish an updated list of best available technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response.

''(3) SAFETY CASE.—Not later than May 1, 2011, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf.

''(4) EMPLOYEE TRAINING.—

''(A) IN GENERAL.—Not later than May 1, 2011, the Secretary shall promulgate regulations setting standards for training for all workers on offshore facilities (including mobile offshore drilling units) conducting energy and mineral resource exploration, development, and production operations on the outer Continental Shelf.

''(B) REQUIREMENTS.—The training standards under this paragraph shall require that employers of workers described in subparagraph (A)—

''(i) establish training programs approved by the Secretary; and

''(ii) demonstrate that employees involved in the offshore operations meet standards that demonstrate the aptitude of the employees in critical technical skills.

''(C) EXPERIENCE.—The training standards under this section shall require that any offshore worker with less than 5 years of applied experience in offshore facilities operations pass a certification requirement after receiving the appropriate training.

''(D) MONITORING TRAINING COURSES.—The Secretary shall ensure that Department employees responsible for inspecting offshore facilities monitor, observe, and report on training courses established under this paragraph, including attending a representative number of the training sessions, as determined by the Secretary.''; and

(3) by adding at the end the following:

''(g) TECHNOLOGY RESEARCH AND RISK ASSESSMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with outer Continental Shelf energy and mineral resource activities, with the primary purpose of informing the role of research, development, and risk assessment relating to safety, environmental protection, and spill response.

''(2) SPECIFIC AREAS OF FOCUS.—The program under this subsection shall include research, development, and other activities related to—

''(A) risk assessment, using all available data from safety and compliance records both within the United States and internationally;

''(B) analysis of industry trends in technology, investment, and interest in frontier areas;

''(C) analysis of incidents investigated under section 22;

''(D) reviews of best available technologies, including technologies associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

''(E) oil spill response and mitigation;

''(F) risks associated with human factors; and

''(G) renewable energy operations.

''(3) INFORMATION SHARING ACTIVITIES.—

''(A) DOMESTIC ACTIVITIES.—The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(B) INTERNATIONAL COOPERATION.—The Secretary shall carry out programs to cooperate with international organizations and foreign governments to share information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(4) REPORTS.—The program under this subsection shall provide to the Secretary, each Bureau Director under section 32, and the public quarterly reports that address—

''(A) developments in each of the areas under paragraph (2); and

''(B)(i) any accidents that have occurred in the past quarter; and

''(ii) appropriate responses to the accidents.

''(5) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the studies, analyses, and other activities under this subsection;

''(C) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

''(D) make available to the public studies conducted and data gathered under this section.

''(6) USE OF DATA.—The Secretary shall ensure that the information from the studies and research carried out under this section inform the development of safety practices and regulations as required by this Act and other applicable laws.''.

(i) ENFORCEMENT.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) in the first sentence, by inserting '', each loss of well control, blowout, activation of the blowout preventer, and other accident that presented a serious risk to human or environmental safety,'' after ''fire''; and

(ii) in the last sentence, by inserting ''as a condition of the lease'' before the period at the end;

(B) in the last sentence of paragraph (2), by inserting ''as a condition of lease'' before the period at the end;

(2) in subsection (e)—

(A) by striking ''(e) The'' and inserting the following:

''(e) REVIEW OF ALLEGED SAFETY VIOLATIONS.—

''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) INVESTIGATION.—The Secretary shall investigate any allegation from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).''; and

(3) by adding at the end of the section the following:

''(g) INDEPENDENT INVESTIGATION.—

''(1) IN GENERAL.—At the request of the Secretary, the National Transportation Safety Board may conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act, that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

''(2) TRANSPORTATION ACCIDENT.—For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

''(h) INFORMATION ON CAUSES AND CORRECTIVE ACTIONS.—

''(1) IN GENERAL.—For each incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken.

''(2) PUBLIC DATABASE.—All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

''(i) INSPECTION FEE.—

''(1) IN GENERAL.—To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a nonrefundable inspection fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection under subsection (c).

''(2) ESTABLISHMENT.—The Secretary shall establish, by rule, inspection fees—

''(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Department of the Interior; and

''(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

''(3) OCEAN ENERGY ENFORCEMENT FUND.—There is established in the Treasury a fund, to be known as the 'Ocean Energy Enforcement Fund' (referred to in this subsection as the 'Fund'), into which shall be deposited amounts collected under paragraph (1) and which shall be available as provided under paragraph (4).

''(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this section—

''(A) shall be credited as offsetting collections;

''(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

''(C) shall be available only to the extent provided for in advance in an appropriations Act; and

''(D) shall remain available until expended.

''(5) ANNUAL REPORTS.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning

with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

''(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

''(i) A statement of the amounts deposited into the Fund.

''(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

''(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.''.

(j) REMEDIES AND PENALTIES.—Section 24 of the Outer Continental Shelf Lands Act (43 U.S.C. 1350) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) CIVIL PENALTY.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (3), if any person fails to comply with this Act, any term of a lease or permit issued under this Act, or any regulation or order issued under this Act, the person shall be liable for a civil administrative penalty of not more than $75,000 for each day of continuance of each failure.

''(2) ADMINISTRATION.—The Secretary may assess, collect, and compromise any penalty under paragraph (1).

''(3) HEARING.—No penalty shall be assessed under this subsection until the person charged with a violation has been given the opportunity for a hearing.

''(4) ADJUSTMENT.—The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.'';

(2) in subsection (c)—

(A) in the first sentence, by striking ''$100,000'' and inserting ''$10,000,000''; and

(B) by adding at the end the following: ''The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.''; and

(3) in subsection (d), by inserting '', or with reckless disregard,'' after ''knowingly and willfully''.

(k) OIL AND GAS DEVELOPMENT AND PRODUCTION.—Section 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1351) is amended by striking '', other than the Gulf of Mexico,'' each place it appears in subsections (a)(1), (b), and (e)(1).

(l) CONFLICTS OF INTEREST.—Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1355) is amended to read as follows:

''SEC. 29. CONFLICTS OF INTEREST.

''(a) RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall—

''(1) within 2 years after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid, advise, or assist in—

''(i) representing any other person (except the United States in any formal or informal appearance before; or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order lease, permit, rulemaking, inspection, enforcement action, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee;

''(2) within 1 year after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid , advise, or assist in —

''(i) representing any other person (except the United States in any formal or informal appearance before, or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, inspection, enforcement action, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest; or

''(3) accept employment or compensation, during the 1-year period beginning on the date on which employment with the Department has ceased, from any person (other than the United States) that has a direct and substantial interest—

''(A) that was pending under the official responsibility of the employee as an officer or employee of the Department during the 1-year period preceding the termination of the responsibility; or

''(B) in which the employee participated personally and substantially as an officer or employee.

''(b) PRIOR EMPLOYMENT RELATIONSHIPS.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee—

''(1) the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;

''(2) any organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee has a financial interest;

''(3) any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or

''(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee has a financial interest.

''(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title V, Code of Federal Regulations (or successor regulations).

''(d) EXEMPTIONS.—The Secretary may, by rule, exempt from this section clerical and support personnel who do not conduct inspections, perform audits, or otherwise exercise regulatory or policy making authority under this Act.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Any person who violates paragraph (1) or (2) of subsection (a) or subsection (b) shall be punished in accordance with section 216 of title 18, United States Code.

''(2) CIVIL PENALTIES.—Any person who violates subsection (a)(3) or (c) shall be punished in accordance with subsection (b) of section 216 of title 18, United States Code.''.

SEC. 307. STUDY ON THE EFFECT OF THE MORATORIA ON NEW DEEPWATER DRILLING IN THE GULF OF MEXICO ON EMPLOYMENT AND SMALL BUSINESSES.

(a) IN GENERAL.—The Department of Energy, acting through the Energy Information Administration, shall publish a monthly study evaluating the effect of the moratoria resulting from the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment, on employment and small businesses.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act and at the beginning of each month thereafter during the effective period of the moratoria described in subsection (a), the Secretary of Energy, acting through the Energy Information Administration, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report regarding the results of the study conducted under subsection (a), including—

(1) a survey of the effect of the moratoria on deepwater drilling on employment in the industries directly involved in oil and natural gas exploration in the outer Continental Shelf;

(2) a survey of the effect of the moratoria on employment in the industries indirectly involved in oil and natural gas exploration in the outer Continental Shelf, including suppliers of supplies or services and customers of industries directly involved in oil and natural gas exploration;

(3) an estimate of the effect of the moratoria on the revenues of small business located near the Gulf of Mexico and, to the maximum extent practicable, throughout the United States; and

(4) any recommendations to mitigate possible negative effects on small business concerns resulting from the moratoria.

SEC. 308. REFORM OF OTHER LAW.

Section 388(b) of the Energy Policy Act of 2005 (43 U.S.C. 1337 note; Public Law 109–58) is amended by adding at the end the following:

''(4) FEDERAL AGENCIES.—Any head of a Federal department or agency shall, on request of the Secretary, provide to the Secretary all data and information that the Secretary determines to be necessary for the purpose of including the data and information in the mapping initiative, except that no Federal department or agency shall be required to provide any data or information that is privileged or proprietary.''.

SEC. 309. SAFER OIL AND GAS PRODUCTION.

(a) PROGRAM AUTHORITY.—Section 999A of the Energy Policy Act of 2005 (42 U.S.C. 16371) is amended—

(1) in subsection (a)—

(A) by striking ''ultra-deepwater'' and inserting ''deepwater''; and

(B) by inserting ''well control and accident prevention,'' after ''safe operations,'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Deepwater architecture, well control and accident prevention, and deepwater technology, including drilling to deep formations in waters greater than 500 feet.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) Safety technology research and development for drilling activities aimed at well control and accident prevention performed by the Office of Fossil Energy of the Department.''; and

(3) in subsection (d)—

(A) in the subsection heading, by striking ''NATIONAL ENERGY TECHNOLOGY LABORATORY'' and inserting ''OFFICE OF FOSSIL ENERGY OF THE DEPARTMENT''; and

(B) by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(b) DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.—Section 999B of the Energy Policy Act of 2005 (42 U.S.C. 16372) is amended—

(1) in the section heading, by striking ''**ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM**'' and inserting ''**SAFE OIL AND GAS PRODUCTION AND ACCIDENT PREVENTION**'';

(2) in subsection (a), by striking '', by increasing'' and all that follows through the period at the end and inserting ''and the safe and environmentally responsible exploration, development, and production of hydrocarbon resources.'';

(3) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) projects will be selected on a competitive, peer-reviewed basis.''; and

(4) in subsection (d)—

(A) in paragraph (6), by striking ''ultra-deepwater'' and inserting ''deepwater'';

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''ULTRA-DEEPWATER'' and inserting ''DEEPWATER'';

(II) by striking ''development and'' and inserting ''research, development, and''; and

(III) by striking ''as well as'' and all that follows through the period at the end and inserting ''aimed at improving operational safety of drilling activities, including well integrity systems, well control, blowout prevention, the use of non-toxic materials, and integrated systems approach-based management for exploration and production in deepwater.'';

(ii) in subparagraph (B), by striking ''and environmental mitigation'' and inserting ''use of non-toxic materials, drilling safety, and environmental mitigation and accident prevention'';

(iii) in subparagraph (C), by inserting ''safety and accident prevention, well control and systems integrity,'' after ''including''; and

(iv) by adding at the end the following:

''(D) SAFETY AND ACCIDENT PREVENTION TECHNOLOGY RESEARCH AND DEVELOPMENT.—Awards from allocations under section 999H(d)(4) shall be expended on areas including—

''(i) development of improved cementing and casing technologies;

''(ii) best management practices for cementing, casing, and other well control activities and technologies;

''(iii) development of integrity and stewardship guidelines for—

''(I) well-plugging and abandonment;

''(II) development of wellbore sealant technologies; and

''(III) improvement and standardization of blowout prevention devices.''; and

(C) by adding at the end the following:

''(8) STUDY; REPORT.—

''(A) STUDY.—As soon as practicable after the date of enactment of this paragraph, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to determine—

''(i) whether the benefits provided through each award under this subsection during calendar year 2011 have been maximized; and

''(ii) the new areas of research that could be carried out to meet the overall objectives of the program.

''(B) REPORT.—Not later than January 1, 2012, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under subparagraph (A).

''(C) OPTIONAL UPDATES.—The Secretary may update the report described in subparagraph (B) for the 5-year period beginning on the date described in that subparagraph and each 5-year period thereafter.'';

(5) in subsection (e)—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by inserting ''to the Secretary for review'' after ''submit''; and

(ii) in the first sentence of subparagraph (B), by striking ''Ultra-Deepwater'' and all that follows through ''and such Advisory Committees'' and inserting ''Program Advisory Committee established under section 999D(a), and the Advisory Committee''; and

(B) by adding at the end the following:

''(6) RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION.—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research findings of the program carried out under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, determines to be necessary.'';

(6) in subsection (i)—

(A) in the subsection heading, by striking ''UNITED STATES GEOLOGICAL SURVEY'' and inserting ''DEPARTMENT OF THE INTERIOR''; and

(B) by striking '', through the United States Geological Survey,''; and

(7) in the first sentence of subsection (j), by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(c) ADDITIONAL REQUIREMENTS FOR AWARDS.—Section 999C(b) of the Energy Policy Act of 2005 (42 U.S.C. 16373(b)) is amended by striking ''an ultra-deepwater technology or an ultra-deepwater architecture'' and inserting ''a deepwater technology''.

(d) PROGRAM ADVISORY COMMITTEE.—Section 999D of the Energy Policy Act of 2005 (42 U.S.C. 16374) is amended to read as follows:

''SEC. 999D. PROGRAM ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of the Outer Continental Shelf Reform Act of 2010, the Secretary shall establish an advisory committee to be known as the 'Program Advisory Committee' (referred to in this section as the 'Advisory Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Committee shall be composed of members appointed by the Secretary, including—

''(A) individuals with extensive research experience or operational knowledge of hydrocarbon exploration and production;

''(B) individuals broadly representative of the affected interests in hydrocarbon production, including interests in environmental protection and safety operations;

''(C) representatives of Federal agencies, including the Environmental Protection Agency and the Department of the Interior;

''(D) State regulatory agency representatives; and

''(E) other individuals, as determined by the Secretary.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Advisory Committee shall not include individuals who are board members, officers, or employees of the program consortium.

''(B) CATEGORICAL REPRESENTATION.—In appointing members of the Advisory Committee, the Secretary shall ensure that no class of individuals described in any of subparagraphs (A), (B), (D), or (E) of paragraph (1) comprises more than ⅓ of the membership of the Advisory Committee.

''(c) SUBCOMMITTEES.—The Advisory Committee may establish subcommittees for separate research programs carried out under this subtitle.

''(d) DUTIES.—The Advisory Committee shall—

''(1) advise the Secretary on the development and implementation of programs under this subtitle; and

''(2) carry out section 999B(e)(2)(B).

''(e) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but shall be entitled to receive travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) PROHIBITION.—The Advisory Committee shall not make recommendations on funding awards to particular consortia or other entities, or for specific projects.''.

(e) DEFINITIONS.—Section 999G of the Energy Policy Act of 2005 (42 U.S.C. 16377) is amended—

(1) in paragraph (1), by striking ''200 but less than 1,500 meters'' and inserting ''500 feet'';

(2) by striking paragraphs (8), (9), and (10);

(3) by redesignating paragraphs (2) through (7) and (11) as paragraphs (4) through (9) and (10), respectively;

(4) by inserting after paragraph (1) the following:

''(2) DEEPWATER ARCHITECTURE.—The term 'deepwater architecture' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.

''(3) DEEPWATER TECHNOLOGY.—The term 'deepwater technology' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.''; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking ''in an economically inaccessible geological formation, including resources of small producers''.

(f) FUNDING.—Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended—

(1) in the first sentence of subsection (a) by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safe and Responsible Energy Production Research Fund'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''35 percent'' and inserting ''21.5 percent'';

(B) in paragraph (2), by striking ''32.5 percent'' and inserting ''21 percent'';

(C) in paragraph (4)—

(i) by striking ''25 percent'' and inserting ''30 percent'';

(ii) by striking ''complementary research'' and inserting ''safety technology research and development''; and

(iii) by striking ''contract management,'' and all that follows through the period at the end and inserting ''and contract management.''; and

(D) by adding at the end the following:

''(5) 20 percent shall be used for research activities required under sections 20 and 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346, 1347).''.

(3) in subsection (f), by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safer Oil and Gas Production and Accident Prevention Research Fund''.

(g) CONFORMING AMENDMENT.—Subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.) is amended in the subtitle heading by striking ''**Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources**'' and inserting ''**Safer Oil and Gas Production and Accident Prevention**''.

SEC. 310. NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION.

(a) ESTABLISHMENT.—There is established in the Legislative branch the National Commission on Outer Continental Shelf Oil Spill Prevention (referred to in this section as the ''Commission'').

(b) PURPOSES.—The purposes of the Commission are—

(1) to examine and report on the facts and causes relating to the Deepwater Horizon explosion and oil spill of 2010;

(2) to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident;

(3) to build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate;

(B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and

(C) other Executive branch, congressional, or independent commission investigations into the Deepwater Horizon incident of 2010, other fatal oil platform accidents and major spills, and major oil spills generally;

(4) to make a full and complete accounting of the circumstances surrounding the incident, and the extent of the preparedness of the United States for, and immediate response of the United States to, the incident; and

(5) to investigate and report to the President and Congress findings, conclusions, and recommendations for corrective measures that may be taken to prevent similar incidents.

(c) COMPOSITION OF COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 1 member shall be appointed by the President, who shall serve as Chairperson of the Commission;

(B) 1 member shall be appointed by the majority or minority (as the case may be) leader of the Senate from the Republican Party and the majority or minority (as the case may be) leader of the House of Representatives from the Republican Party, who shall serve as Vice Chairperson of the Commission;

(C) 2 members shall be appointed by the senior member of the leadership of the Senate from the Democratic Party;

(D) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Republican Party;

(E) 2 members shall be appointed by the senior member of the leadership of the Senate from the Republican Party; and

(F) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Democratic Party.

(2) QUALIFICATIONS; INITIAL MEETING.—

(A) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(B) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be a current officer or employee of the Federal Government or any State or local government.

(C) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience and expertise in such areas as—

(i) engineering;

(ii) environmental compliance;

(iii) health and safety law (particularly oil spill legislation);

(iv) oil spill insurance policies;

(v) public administration;

(vi) oil and gas exploration and production;

(vii) environmental cleanup; and

(viii) fisheries and wildlife management.

(D) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before September 15, 2010.

(E) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(3) QUORUM; VACANCIES.—

(A) IN GENERAL.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of the members of the Commission.

(B) QUORUM.—6 members of the Commission shall constitute a quorum.

(C) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made.

(d) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission are—

(A) to conduct an investigation that—

(i) investigates relevant facts and circumstances relating to the Deepwater Horizon incident of April 20, 2010, and the associated oil spill thereafter, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(ii) may include relevant facts and circumstances relating to—

(I) permitting agencies;

(II) environmental and worker safety law enforcement agencies;

(III) national energy requirements;

(IV) deepwater and ultradeepwater oil and gas exploration and development;

(V) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention;

(VI) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation;

(VII) the role of congressional oversight and resource allocation; and

(VIII) other areas of the public and private sectors determined to be relevant to the Deepwater Horizon incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the Deepwater Horizon incident of April 20, 2010, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress such reports as are required under this section containing such findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(2) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL COMMITTEES.—In investigating facts and circumstances relating to energy policy, the Commission shall—

(A) first review the information compiled by, and any findings, conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

(B) after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that—

(i) those committees have not investigated that area;

(ii) the investigation of that area by those committees has not been completed; or

(iii) new information not reviewed by the committees has become available with respect to that area.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—

(A) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;

as the Commission or such subcommittee or member considers to be advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this paragraph only—

(I) by the agreement of the Chairperson and the Vice Chairperson; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), a subpoena issued under this paragraph—

(I) shall bear the signature of the Chairperson or any member designated by a majority of the Commission;

(II) and may be served by any person or class of persons designated by the Chairperson or by a member designated by a majority of the Commission for that purpose.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district

court for the district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(ii) JUDICIAL ACTION FOR NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(iii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 through 194).

(3) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this section.

(4) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from any Executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this section.

(B) COOPERATION.—Each Federal department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the Chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(C) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall be received, handled, stored, and disseminated only by members of the Commission and the staff of the Commission in accordance with all applicable laws (including regulations and Executive orders).

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.

(B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.

(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(f) PUBLIC MEETINGS AND HEARINGS.—

(1) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(A) hold public hearings and meetings, to the extent appropriate; and

(B) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).

(2) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or developed for or by the Commission as required by any applicable law (including a regulation or Executive order).

(g) STAFF OF COMMISSION.—

(1) IN GENERAL.—

(A) APPOINTMENT AND COMPENSATION.—

(i) IN GENERAL.—The Chairperson, in consultation with the Vice Chairperson and in accordance with rules agreed upon by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.

(ii) MAXIMUM RATE OF PAY.—No rate of pay fixed under this subparagraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) MEMBERS OF COMMISSION.—Clause (i) shall not apply to members of the Commission.

(2) DETAILEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(h) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(i) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances, to the maximum extent practicable, pursuant to existing procedures and requirements.

(2) PROPRIETARY INFORMATION.—No person shall be provided with access to proprietary information under this section without the appropriate security clearances.

(j) REPORTS OF COMMISSION; ADJOURNMENT.—

(1) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(2) FINAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(3) TEMPORARY ADJOURNMENT.—

(A) IN GENERAL.—The Commission, and all the authority provided under this section, shall adjourn and be suspended, respectively, on the date that is 60 days after the date on which the final report is submitted under paragraph (2).

(B) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding activities of the Commission, including—

(i) providing testimony to committees of Congress concerning reports of the Commission; and

(ii) disseminating the final report submitted under paragraph (2).

(C) RECONVENING OF COMMISSION.—The Commission shall stand adjourned until such time as the President or the Secretary of Homeland Security declares an oil spill of national significance to have occurred, at which time—

(i) the Commission shall reconvene in accordance with subsection (c)(3); and

(ii) the authority of the Commission under this section shall be of full force and effect.

(k) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $10,000,000 for the first fiscal year in which the Commission convenes; and

(B) $3,000,000 for each fiscal year thereafter in which the Commission convenes.

(2) AVAILABILITY.—Amounts made available to carry out this section shall be available—

(A) for transfer to the Commission for use in carrying out the functions and activities of the Commission under this section; and

(B) until the date on which the Commission adjourns for the fiscal year under subsection (j)(3).

(l) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 311. SAVINGS PROVISIONS.

(a) EXISTING LAW.—All regulations, rules, standards, determinations, contracts and agreements, memoranda of understanding, certifications, authorizations, appointments, delegations, results and findings of investigations, or any other actions issued, made, or taken by, or pursuant to or under, the authority of any law (including regulations) that resulted in the assignment of functions or activities to the Secretary, the Director of the Minerals Management Service (including by delegation from the Secretary), or the Department (as related to the implementation of the purposes referenced in this title) that were in effect on the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act

unless previously scheduled to expire or until otherwise modified or rescinded by this title or any other Act.

(b) EFFECT ON OTHER AUTHORITIES.—This title does not amend or alter the provisions of other applicable laws, unless otherwise noted.

TITLE IV—ENVIRONMENTAL CRIMES ENFORCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Environmental Crimes Enforcement Act of 2010''.

SEC. 402. ENVIRONMENTAL CRIMES.

(a) SENTENCING GUIDELINES.—

(1) DIRECTIVE.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines and policy statements applicable to persons convicted of offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), in order to reflect the intent of Congress that penalties for the offenses be increased in comparison to those provided on the date of enactment of this Act under the guidelines and policy statements, and appropriately account for the actual harm to the public and the environment from the offenses.

(2) REQUIREMENTS.—In amending the Federal Sentencing Guidelines and policy statements under paragraph (1), the United States Sentencing Commission shall—

(A) ensure that the guidelines and policy statements, including section 2Q1.2 of the Federal Sentencing Guidelines (and any successor thereto), reflect—

(i) the serious nature of the offenses described in paragraph (1);

(ii) the need for an effective deterrent and appropriate punishment to prevent the offenses; and

(iii) the effectiveness of incarceration in furthering the objectives described in clauses (i) and (ii);

(B) consider the extent to which the guidelines appropriately account for the actual harm to public and the environment resulting from the offenses;

(C) ensure reasonable consistency with other relevant directives and guidelines and Federal statutes;

(D) make any necessary conforming changes to guidelines; and

(E) ensure that the guidelines relating to offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) adequately meet the purposes of sentencing, as set forth in section 3553(a)(2) of title 18, United States Code.

(b) RESTITUTION.—Section 3663A(c)(1) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''or'' at the end;

(2) in clause (iii), by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(iv) an offense under section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)); and''.

TITLE V—FAIRNESS IN ADMIRALTY AND MARITIME LAW

SEC. 501. SHORT TITLE.

This title may be cited as the ''Fairness in Admiralty and Maritime Law Act''.

SEC. 502. REPEAL OF LIMITATION OF SHIPOWNERS' LIABILITY ACT OF 1851.

(a) IN GENERAL.—Chapter 305 of title 46, United States Code, is amended as follows:

(1) Subsection (a) of section 30505 is amended to read as follows:

''(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed three times the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.''.

(2) Subsection (c) of section 30505 is amended to read as follows:

''(c) CLAIMS NOT SUBJECT TO LIMITATION.—Subsection (a) does not apply—

''(1) to a claim for wages; or

''(2) to a claim resulting from a discharge of oil from a vessel or offshore facility, as those terms are defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).''.

(3) Subsection (c) of section 30511 is amended to read as follows:

''(c) CESSATION OF OTHER ACTIONS.—At the time that an action is brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question which are subject to limitation under section 30505 shall cease.''.

SEC. 503. ASSESSMENT OF PUNITIVE DAMAGES IN MARITIME LAW.

(a) IN GENERAL.—Chapter 301 of title 46, United States Code, is amended by adding at the end the following:

''§ 30107. Punitive damages

''In a civil action for damages arising out of a maritime tort, punitive damages may be assessed without regard to the amount of compensatory damages assessed in the action.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 301 of title 46, United States Code, is amended by adding at the end the following:

''30107. Punitive damages.''.

SEC. 504. AMENDMENTS TO THE DEATH ON THE HIGH SEAS ACT.

(a) IN GENERAL.—Chapter 303 of title 46, United States Code, is amended—

(1) by inserting ''or law'' after ''admiralty'' in section 30302;

(2) by inserting ''and nonpecuniary loss'' after ''pecuniary loss'' in section 30303;

(3) by striking ''sustained by'' and all that follows in section 30303 and inserting ''sustained, plus a fair compensation for the decedent's pain and suffering. In this section, the term 'nonpecuniary loss' means the loss of care, comfort, and companionship.'';

(4) by inserting ''or law'' after ''admiralty'' in section 30305; and

(5) by inserting ''or law'' after ''admiralty'' in section 30306.

(b) AVIATION ACCIDENTS.—

(1) IN GENERAL.—Section 30307 of title 46, United States Code, is amended—

(A) by striking subsection (a) and inserting the following:

''(a) DEFINITIONS.—

''(1) COMMERCIAL AVIATION; GENERAL AVIATION.—The terms 'commercial aviation' and 'general aviation' have the same meaning as those terms, respectively, as used in subtitle VII of title 49, United States Code.

''(2) NONPECUNIARY DAMAGES.—The term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.'';

(B) by inserting ''or general aviation'' after ''commercial aviation'' in subsections (b) and (c); and

(C) by adding at the end thereof the following:

''(d) PROCEDURE.—Notwithstanding sections 30302, 30305, and 30306, an action to which this section applies may be brought in admiralty and may not be brought in law.''.

(2) CONFORMING AMENDMENTS.—

(A) SECTION HEADING.—Section 30307 of title 46, United States Code, is amended by striking the section heading and inserting ''**Aviation accidents**''.

(B) CLERICAL AMENDMENT.—The table of contents for chapter 303 of title 46, United States Code, is amended by striking the item relating to section 30307 and inserting the following:

''30307. Aviation accidents.''.

(c) APPLICATION TO FISHING VESSELS.—

(1) IN GENERAL.—None of the amendments made by this section shall apply with respect to a fishing vessel.

(2) FISHING VESSEL DEFINED.—In this subsection, the term ''fishing vessel'' means—

(A) a vessel, boat, ship, or other watercraft that is used for, equipped to be used for, or of a type normally used for—

(i) charter fishing (as defined in section 3(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(3)));

(ii) commercial fishing (as defined in section 3(4) of such Act (16 U.S.C. 1802(4))); or

(iii) aiding or assisting one or more vessels at sea in the performance of any activity relating to commercial fishing (as so defined), including preparation, supply, storage, refrigeration, transportation, or processing; but

(B) does not include a passenger vessel (as defined in section 2101(22) of title 46, United States Code).

SEC. 505. EFFECTIVE DATE.

This title and the amendments made by this title shall apply to—

(1) causes of action and claims arising after April 19, 2010; and

(2) actions commenced before the date of enactment of this Act that have not been finally adjudicated, including appellate review, as of that date.

TITLE VI—SECURING HEALTH FOR OCEAN RESOURCES AND ENVIRONMENT (SHORE)

SEC. 601. SHORT TITLE.

This title may be cited as the ''Securing Health for Ocean Resources and Environment Act'' or the ''SHORE Act''.

Subtitle A—National Oceanic and Atmospheric Administration Oil Spill Response, Containment, and Prevention

SEC. 611. IMPROVEMENTS TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OIL SPILL RESPONSE, CONTAINMENT, AND PREVENTION.

(a) REVIEW OF ABILITY OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION TO RESPOND TO OIL SPILLS.—

(1) COMPREHENSIVE REVIEW REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Under Secretary for Oceans and Atmosphere shall conduct a comprehensive review of the current capacity of the National Oceanic and Atmospheric Administration to respond to oil spills.

(2) ELEMENTS.—The review conducted under paragraph (1) shall include the following:

(A) A comparison of oil spill modeling requirements with the state-of-the-art oil spill modeling with respect to near shore and offshore areas.

(B) Development of recommendations on priorities for improving forecasting of oil spill, trajectories, and impacts.

(C) An inventory of the products and tools of the National Oceanic and Atmospheric Administration that can aid in assessment of the potential risk and impacts of oil spills. Such products and tools may include environmental sensitivity index maps, the United States Integrated Ocean Observing System, and regional information coordinating entities established as part of such System, and oil spill trajectory models.

(D) An identification of the baseline oceanographic and climate data required to support state of the art modeling.

(E) An assessment of the Administration's ability to respond to the effects of an oil spill on its trust resources, including—

(i) marine sanctuaries, monuments, and other protected areas;

(ii) marine mammals, sea turtles, and other protected species, and efforts to rehabilitate such species.

(3) REPORT.—Upon completion of the review required by paragraph (1), the Under Secretary shall submit to Congress a report on such review, including the findings of the Under Secretary with respect to such review.

(b) OIL SPILL TRAJECTORY MODELING.—

(1) IN GENERAL.—The Under Secretary for Oceans and Atmosphere and the Secretary of the Interior shall be responsible for developing and maintaining oil spill trajectory modeling capabilities to aid oil spill response and natural resource damage assessment, including taking such actions as may be required by subsections (c) through (g).

(2) REAL-TIME TRAJECTORY MODELING.—The Under Secretary shall have primary responsibility for real-time trajectory modeling.

(3) LONG-TERM TRAJECTORY MODELING.—The Secretary of the Interior shall have primary responsibility for long-term trajectory modeling.

(4) COORDINATION WITH NATIONAL LABORATORIES.—In carrying out this subsection, the Under Secretary and the Secretary of the Interior shall coordinate with National Laboratories with established oil spill modeling expertise.

(c) ENVIRONMENTAL SENSITIVITY INDEX.—

(1) UPDATE.—Beginning not later than 180 days after the date of the enactment of this Act and not less frequently than once every 7 years thereafter, the Under Secretary shall update the environmental sensitivity index products of the National Oceanic and Atmospheric Administration for each coastal area of the United States and for each offshore area of the United States that is leased or under consideration for leasing for offshore energy production.

(2) EXPANDED COVERAGE.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary shall, to the maximum extent practicable, create an environmental sensitivity index product for each area described in paragraph (1) for which the National Oceanic and Atmospheric Administration did not have an environmental sensitivity index product on the day before the date of the enactment of this Act.

(3) ENVIRONMENTAL SENSITIVITY INDEX PRODUCT DEFINED.—In this subsection, the term ''environmental sensitivity index product'' means a map or similar tool that is utilized to identify sensitive shoreline, coastal or offshore, resources prior to an oil spill event in order to set baseline priorities for protection and plan cleanup strategies, typically including information relating to shoreline type, biological resources, and human use resources.

(4) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to alter or limit the authority or responsibility of the Secretary of the Interior provided by this or any other Act.

(d) SUBSEA HYDROCARBON REVIEW AND PROGRAM.—

(1) REVIEW REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, conduct a comprehensive review of the current state of the National Oceanic and Atmospheric Administration to observe, monitor, map, and track subsea hydrocarbons, including a review of the effect of subsea hydrocarbons and dispersants at varying concentrations on living marine resources.

(2) ELEMENTS OF REVIEW.—The review conducted under paragraph (1) shall include the following:

(A) A review of protocol for the application of dispersants that contemplates the variables of temperature, pressure, and depth of the site of release of hydrocarbons.

(B) A review of technological capabilities to detect the presence of subsea hydrocarbons at various concentrations and at various depths within a water column resulting from releases of oil and natural gas after a spill.

(C) A review of technological capabilities for expeditiously identifying the source (''fingerprinting'') of subsea hydrocarbons.

(D) A review of coastal and ocean current modeling as it relates to predicting the trajectory of oil and natural gas.

(E) A review of the effect of varying concentrations of hydrocarbons on all levels of the food web, including evaluations of seafood safety, toxicity to individuals, negative impacts to reproduction, bioaccumulation, growth, and such other matters as the Under Secretary and the Administrator think appropriate.

(F) Development of recommendations on priorities for improving forecasting of movement of subsea hydrocarbon.

(G) Development of recommendations for implementation of a Subsea Hydrocarbon Monitoring and Assessment program within the Office of Response and Restoration.

(3) PROGRAM REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Under Secretary shall, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Interior, establish a hydrocarbon monitoring and assessment program that is based on the recommendations developed under the comprehensive review required by paragraph (1).

(e) NATIONAL INFORMATION CENTER ON OIL SPILLS.—The Under Secretary shall, in cooperation with the Interagency Coordinating Committee on Oil Pollution Research, establish a national information center on oil spills that—

(1) includes scientific information and research on oil spill preparedness, response, and restoration;

(2) serves as a single access point for emergency responders for such scientific data;

(3) provides outreach and utilizes communication mechanisms to inform partners, the public, and local communities about the availability of oil spill preparedness, prevention, response, and restoration information and services and otherwise improves public understanding and minimizes impacts of oil spills; and

(4) applies the data interoperability standards developed by the Integrated Coastal Ocean Observation System [to all for free and open access to all relevant Federal and non-Federal data using, to the extent practicable, the existing infrastructure of the regional information coordinating entities developed as part of the Integrated Coastal Ocean Observing System as a portal for accessing non-federal data].

(f) INITIATIVE ON OIL SPILLS FROM AGING AND ABANDONED OIL INFRASTRUCTURE.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary shall establish an initiative—

(1) to determine the significance, response, frequency, size, potential fate, and potential effects, including those on sensitive habitats, of oil spills resulting from aging and abandoned oil infrastructure; and

(2) to formulate recommendations on how best to address such spills.

(g) INVENTORY OF OFFSHORE ABANDONED OR SUNKEN VESSELS.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary shall, in consultation with the Secretary of the Interior, develop an inventory of offshore abandoned or sunken vessels in the exclusive economic zone of the United States and identify priorities (based on amount of oil, feasibility of oil recovery, fate and effects of oil if released, and cost-benefit of preemptive action) for potential preemptive removal of oil or other actions that may be effective to mitigate the risk of oil spills from offshore abandoned or sunken vessels.

(h) QUINQUENNIAL REPORT ON ECOLOGICAL BASELINES, IMPORTANT ECOLOGICAL AREAS, AND ECONOMIC RISKS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, and not less frequently than once every 5 years thereafter, the Under Secretary shall submit to Congress a report that, with respect to regions that are leased or are under consideration for leasing for offshore energy production—

(A) characterizes ecological baselines;

(B) identifies important ecological areas, critical habitats, and migratory behaviors; and

(C) identifies potential risks posed by hydrocarbon development to these resources.

(2) IMPORTANT ECOLOGICAL AREA DEFINED.—In this subsection, the term ''important ecological area'' means an area that contributes significantly to marine ecosystem health.

(3) RELATIONSHIP TO OTHER LAWS.—Nothing in this subsection shall be construed to alter or limit the authority and responsibility of the Secretary of the Interior provided by this or any other Act.

SEC. 612. USE OF OIL SPILL LIABILITY TRUST FUND FOR PREPAREDNESS, RESPONSE, DAMAGE ASSESSMENT, AND RESTORATION.

Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

''(B)(i) not more than $5,000,000 in each fiscal year shall be available to the Under Secretary for Oceans and Atmosphere and the Assistant Secretary of the Interior for Fish and Wildlife and Parks without further appropriation for expenses incurred by, and activities related to, preparedness, response, restoration, and damage assessment capabilities of the National Oceanic and Atmospheric Administration, the United States Fish and Wildlife Service, and other relevant agencies; and

''(ii) in a fiscal year in which an oil spill of national significance occurs, not more than $25 million shall be available to Federal trustees designated by the President pursuant to section 1006 (b)(2);''.

SEC. 613. INVESTMENT OF AMOUNTS IN DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND IN INTEREST-BEARING OBLIGATIONS.

The Secretary of the Treasury shall invest such a portion of the amounts in the Damage Assessment and Restoration Revolving Fund described in title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1991 (33 U.S.C. 2706 note) as is not required to meet current withdrawals, as determined by the Secretary, in interest-bearing obligations of the United States in accordance with section 9602 of the Internal Revenue Code of 1986.

SEC. 614. STRENGTHENING COASTAL STATE OIL SPILL PLANNING AND RESPONSE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended adding at the end the following new section:

''SEC. 320. STRENGTHENING COASTAL STATE OIL SPILL RESPONSE AND PLANNING.

''(a) GRANTS TO STATES.—The Secretary may make grants to eligible coastal states—

''(1) to revise management programs approved under section 306 and National Estuarine Research Reserves approved under section 315 to identify and implement new enforceable policies and procedures to ensure sufficient response capabilities at the State level to address the environmental, economic and social impacts of oil spills or other accidents resulting from Outer Continental Shelf energy activities with the potential to affect and land or water use or natural resource of the coastal zone;

''(2) to undertake regionally based coastal and marine spatial planning that would assist in data collection, oil spill preparedness activities, and energy facility siting; and

''(3) to review and revise where necessary applicable enforceable policies within approved coastal State management programs affecting coastal energy activities and energy to ensure that these policies are consistent with—

''(A) other emergency response plans and policies developed under Federal or State law; and

''(B) new policies and procedures developed under paragraph (1).

''(b) ELEMENTS.—New enforceable policies and procedures developed by coastal states with grants awarded under this section shall be coordinated with Area Contingency Plans developed pursuant to section 311(j)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)) and shall consider, but not be limited to—

''(1) other existing emergency response plans, procedures and enforceable policies developed under other Federal or State law that affect the coastal zone;

''(2) identification of critical infrastructure essential to facilitate spill or accident response activities;

''(3) identification of coordination, logistics and communication networks between Federal and State government agencies, and between State agencies and affected local communities, to ensure the efficient and timely dissemination of data and other information;

''(4) inventories of shore locations and infrastructure and equipment necessary to respond to oil spills or other accidents resulting from Outer Continental Shelf energy activities;

''(5) identification and characterization of significant or sensitive marine ecosystems or other areas possessing important conservation, recreational, ecological, historic, or aesthetic values;

''(6) inventories and surveys of shore locations and infrastructure capable of supporting alternative energy development;

''(7) observing capabilities necessary to assess ocean conditions before, during, and after an oil spill; and

''(8) other information or actions as may be necessary.

''(c) GUIDELINES.—The Secretary shall, within 180 days after the date of enactment of this section and after consultation with the Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the coastal states, publish guidelines for the application for and use of grants under this section.

''(d) PARTICIPATION.—Coastal states shall provide opportunity for public participation in developing new enforceable policies and procedures under this section pursuant to subsections (d)(1) of (e) of section 306, especially by relevant Federal agencies, relevant Area Committees established pursuant to section 311(j)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)), other coastal state agencies, local governments, regional organizations, port authorities, and other interested parties and stakeholders, public and private, that are related to, or affected by Outer Continental Shelf energy activities.

''(e) ANNUAL GRANTS.—

''(1) IN GENERAL.—For each of fiscal years 2011 through 2015, the Secretary may make a grant to a coastal state to develop new enforceable policies and procedures as required under this section.

''(2) GRANT AMOUNTS AND LIMIT ON AWARDS.—The amount of any grant to any one coastal state under this section shall not exceed $750,000 for any fiscal year.

''(3) NO STATE MATCHING CONTRIBUTION REQUIRED.—A coastal state shall not be required to contribute any portion of the cost of a grant awarded under this section.

''(4) SECRETARIAL REVIEW AND LIMIT ON AWARDS.—After an initial grant is made to a coastal state under this section, no subsequent grant may be made to that coastal state under this section unless the Secretary finds that the coastal state is satisfactorily developing revisions to address offshore energy impacts. No coastal state is eligible to receive grants under this section for more than 2 fiscal years.

''(f) APPLICABILITY.—The requirements of this section shall only apply if appropriations are provided to the Secretary to make grants under this section to enable States to develop new or revised enforceable policies and procedures. Further, this section shall not be construed to convey any new authority to any coastal state, or repeal or supersede any existing authority of any coastal state, to regulate the siting, licensing, leasing, or permitting of alternative energy facilities in areas of the Outer Continental Shelf under the administration of the Federal Government. Nothing in this section repeals or supersedes any existing coastal state authority.

''(g) ASSISTANCE BY THE SECRETARY.—The Secretary shall, as authorized under section 310(a) and to the extent practicable, make available to coastal states the resources and capabilities of the National Oceanic and Atmospheric Administration to provide technical assistance to the coastal states to prepare revisions to approved management programs to meet the requirements under this section.''.

SEC. 615. GULF OF MEXICO LONG-TERM MARINE ENVIRONMENTAL MONITORING AND RESEARCH PROGRAM.

(a) ENVIRONMENTAL MONITORING AND RESEARCH PROGRAM REQUIRED.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act and subject to the availability of appropriations or other sources of funding, the Secretaries and the Administrator shall jointly establish and carry out a long-term marine environmental monitoring and research program for the marine and coastal environment of the Gulf of Mexico to ensure that the Federal Government has independent, peer-reviewed scientific data and information to assess long-term direct and indirect impacts on trust resources located in the Gulf of Mexico and Southeast region resulting from the oil spill caused by the mobile offshore drilling unit Deepwater Horizon.

(2) PERIOD OF PROGRAM.—The Secretaries and the Administrator shall carry out the program required by paragraph (1) during the 10-year period beginning on the date of the commencement of the program. The Secretaries and the Administrator may extend such period upon a determination by the Secretaries and the Administrator that additional monitoring and research is warranted.

(b) SCOPE OF PROGRAM.—The program established under subsection (a) shall include the following:

(1) Monitoring and research of the physical, chemical, and biological characteristics of the affected marine, coastal, and estuarine areas of the Gulf of Mexico and other regions of the exclusive economic zone of the United States and adjacent regions affected by the oil spill caused by the mobile offshore drilling unit Deepwater Horizon.

(2) The fate, transport, and persistence of oil released during the spill and spatial distribution throughout the water column, including in-situ burn residues.

(3) The fate, transport, and persistence of chemical dispersants applied in-situ or on surface waters.

(4) Identification of lethal and sub-lethal impacts to shellfish, fish, and wildlife resources that utilize habitats located within the affected region.

(5) Impacts to regional, State, and local economies that depend on the natural resources of the affected area, including commercial and recreational fisheries, tourism, and other wildlife-dependent recreation.

(6) The development of criteria for the protection of marine aquatic life.

(7) Other elements considered necessary by the Secretaries and the Administrator to ensure a comprehensive marine research and monitoring program to comprehend and understand the implications to trust resources caused by the oil spill from the mobile offshore drilling unit *Deepwater Horizon*.

(c) COOPERATION AND CONSULTATION.—In developing the research and monitoring program established under subsection (a), the Secretaries and the Administrator shall consult with—

(1) the National Ocean Research Leadership Council established under section 7902 of title 10, United States Code;

(2) such representatives from the Gulf coast States and affected countries as the Secretary considers appropriate;

(3) academic institutions and other research organizations;

(4) regional information coordination entities; and

(5) such other experts with expertise in long-term environmental monitoring and research of the marine environment as the Secretary considers appropriate.

(d) AVAILABILITY OF DATA.—Upon review by and approval of the Attorney General regarding impacts on legal claims or litigation involving the United States, data and information generated through the program established under subsection (a) shall be managed and archived according to the standards developed under section 12304 of the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3603) to ensure that it is accessible and available to governmental and non-governmental personnel and to the general public for their use and information.

(e) REPORT.—Not later than 1 year after the date of the commencement of the program under subsection (a) and biennially thereafter, the Secretaries and the Administrator shall jointly submit to Congress a comprehensive report—

(1) summarizing the activities and findings of the program; and

(2) detailing areas and issues requiring future monitoring and research.

(f) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) GULF COAST STATE.—The term ''Gulf coast State'' means each of the States of Texas, Louisiana, Mississippi, Alabama, and Florida.

(3) SECRETARIES.—The term ''Secretaries'' means the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, and the Secretary of the Interior.

(4) TRUST RESOURCES.—The term ''trust resources'' means the living and non-living natural resources belonging to, managed by,

held in trust by, appertaining to, or otherwise controlled by the United States, any State, an Indian Tribe, or a local government.

SEC. 616. ARCTIC RESEARCH AND ACTION TO CONDUCT OIL SPILL PREVENTION.

(a) IN GENERAL.—The Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere and in collaboration with the heads of other agencies or departments of the United States with appropriate Arctic science expertise, direct research and take action to improve the ability of the United States to conduct oil spill prevention, response, and recovery in Arctic waters.

(b) INCLUSIONS.—Research and action under this section shall include the prioritization of resources—

(1) to address—

(A) ecological baselines and environmental sensitivity indexes, including stock assessments of marine mammals and other protected species in the Arctic;

(B) identification of ecological important areas, sensitive habitats, and migratory behaviors;

(C) the development of oil spill trajectory models in Arctic marine conditions;

(D) the collection of observational data essential for response strategies in the event of an oil spill during both open water and ice-covered seasons, including data relating to oil spill trajectory models that include data on—

(i) currents;

(ii) winds;

(iii) weather;

(iv) waves; and

(v) ice forecasting;

(E) the development of a robust operational monitoring program during the open water and ice-covered seasons;

(F) improvements in technologies and understanding of cold water oil recovery planning and restoration implementation; and

(G) the integration of local and traditional knowledge into oil recovery research studies; and

(2) to establish a robust geospatial framework for safe navigation and oil spill response through increased—

(A) hydrographic and bathymetric surveying, mapping, and navigational charting;

(B) geodetic positioning; and

(C) monitoring of tides, sea levels, and currents in the Arctic.

Subtitle B—Improving Coast Guard Response and Inspection Capacity

SEC. 621. SECRETARY DEFINED.

In this subtitle, except as otherwise specifically provided, the term ''Secretary'' means the Secretary of the Secretary of the Department in which the Coast Guard is operating.

SEC. 622. ARCTIC MARITIME READINESS AND OIL SPILL PREVENTION.

(a) IN GENERAL.—The Commandant of the Coast Guard shall assess and take action to reduce the risk and improve the capability of the United States to respond to a maritime disaster in the United States Beaufort and Chukchi Seas.

(b) MATTERS TO BE ADDRESSED.—The assessment and actions referred to in subsection (a) shall include the prioritization of resources to address the following:

(1) Oil spill prevention and response capabilities and infrastructure.

(2) The coordination of contingency plans and agreements with other agencies and departments of the United States, industry, and foreign governments to respond to an Arctic oil spill.

(3) The expansion of search and rescue capabilities, infrastructure, and logistics, including improvements of the Search and Rescue Optimal Planning System.

(4) The provisional designation of places of refuge.

(5) The evaluation and enhancement of navigational infrastructure.

(6) The evaluation and enhancement of vessel monitoring, tracking, and automated identification systems and navigational aids and communications infrastructure for safe navigation and marine accident prevention in the Arctic.

(7) Shipping traffic risk assessments for the Bering Strait and the Chukchi and Beaufort Seas.

(8) The integration of local and traditional knowledge and concerns into prevention and response strategies.

SEC. 623. ADVANCE PLANNING AND PROMPT DECISION MAKING IN CLOSING AND REOPENING FISHING GROUNDS.

(a) REQUIREMENT THAT AREA CONTINGENCY PLANS CONTAIN AREA-SPECIFIC PROTOCOLS AND STANDARDS.—

(1) COOPERATION WITH STATE AND LOCAL OFFICIALS.—Section 311(j)(4)(B)(ii) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)(B)(ii)) is amended by striking the semicolon after ''wildlife'' and inserting a comma and ''including advance planning with respect to the closing and reopening of fishing grounds following an oil spill;''.

(2) FRAMEWORK.—Section 311(j)(4)(C) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)(C)) is amended—

(A) by redesignating clauses (vii) and (viii) as clauses (viii) and (ix), respectively; and

(B) by inserting after clause (vi) the following:

''(vii) develop a framework for advance planning and decision making with respect to the closing and reopening of fishing grounds following an oil spill, including protocols and standards for the closing and reopening of fishing areas;''.

(b) NATIONAL GUIDANCE.—Section 311(j)(4)(D) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)(D)) is amended—

(1) in clause (i) by striking ''and'' at the end;

(2) in clause (ii) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) acting through the Commandant of the Coast Guard and in consultation with the Under Secretary for Oceans and Atmosphere and any other government entities deemed appropriate, issue guidance for Area Committees to use in developing a framework for advance planning and decision making with respect to the closing and reopening of fishing grounds following an oil spill, which guidance shall include model protocols and standards for the closing and reopening of fishing areas.''.

(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed as changing or affecting in any way the authorities or responsibilities of the Under Secretary for Oceans and Atmosphere under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 624. OIL SPILL TECHNOLOGY EVALUATION.

(a) IN GENERAL.—The Secretary and the Secretary of the Interior (in this section referred to as the ''Secretaries'') and the Administrator of the Environmental Protection Agency (in this section referred to as the ''Administrator'') shall establish a program for the formal evaluation and validation of oil pollution containment and removal methods and technologies.

(b) APPROVAL.—The program required by subsection (a) shall establish a process for new methods and technologies to be submitted, evaluated, and gain validation for use in spill responses and inclusion in response plans. Following each validation, the Secretaries and the Administrator shall consider whether the method or technology meets a performance capability warranting designation of a new standard for best available technology or methods. Any such new standard shall be incorporated into each update of a response plan submitted pursuant to section 311(j)(5)(E)(vii) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)), as amended by section 104(b)(3) of this Act.

(c) TECHNOLOGY CLEARINGHOUSE.—All technologies and methods validated under this section shall be included in the comprehensive list of spill removal resources maintained by the Coast Guard through the National Response Unit.

(d) CONSULTATION.—The Secretaries and the Administrator shall consult with the Under Secretary for Oceans and Atmosphere and the Secretary of Transportation in carrying out this section.

SEC. 625. COAST GUARD INSPECTIONS.

(a) IN GENERAL.—The Secretary shall increase the frequency and comprehensiveness of safety inspections of all United States and foreign-flag tank vessels that enter a United States port or place, including increasing the frequency and comprehensiveness of inspections of vessel age, hull configuration, and past violations of any applicable discharge and safety regulations under United States and international law that may indicate that the class societies inspecting such vessels may be substandard, and other factors relevant to the potential risk of an oil spill.

(b) ENHANCED VERIFICATION OF STRUCTURAL CONDITION.—The Secretary shall adopt, as part of the Secretary's inspection requirements for tank vessels, additional procedures for enhancing the verification of the reported structural condition of such vessels, taking into account the Condition Assessment Scheme adopted by the International Maritime Organization by Resolution 94(46) on April 27, 2001.

SEC. 626. CERTIFICATE OF INSPECTION REQUIREMENTS.

(a) IN GENERAL.—Chapter 33 of title 46, United States Code, is amended—

(1) in section 3301, by adding at the end the following:

''(16) vessels and other structures, fixed or floating, including those which dynamically hold position or are attached to the seabed or subsoil, which are capable of exploring for, drilling for, developing, or producing oil or gas.''; and

(2) in section 3305(a)(1)—

(A) by amending subparagraph (E) to read as follows:

''(E) is in a condition to be operated with safety to life and property, including, for the entities described in paragraph (16) of section 3301, those systems specified in regulations required by paragraph (3);'';

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding the following:

''(G) for vessels and other structures described in paragraph (16) of section 3301, complies with the highest relevant classification, certification, rating, and inspection standards for vessels or structures of the same age and type imposed by—

''(i) the American Bureau of Shipping; or

''(ii) another classification society approved by the Secretary and the Secretary of the Interior as meeting acceptable standards for such a society, except that the classification of vessels or structures under this section by a foreign classification society may be accepted by the Secretary and the Secretary of the Interior only—

''(I) to the extent that the government of the foreign country in which the society is headquartered accepts classification by the

American Bureau of Shipping of vessels and structures used in the offshore exploration, development, and production of oil and gas in that country; and

''(II) if the foreign classification society has offices and maintains records in the United States.''.

(b) REGULATIONS.—

(1) REQUIREMENT FOR REGULATIONS.—Notwithstanding section 3306 of title 46, United States Code, in implementing section 3305 of such title, as amended by subsection (a), the Secretary and the Secretary of the Interior shall jointly issue regulations specifying which systems of the vessels or structures described in paragraph (16) of section 3301 of such title, as added by subsection (a)(1), shall be subject to such requirements. At a minimum, such systems shall include—

(A) mobile offshore drilling units;

(B) fixed and floating drilling facilities; and

(C) risers and blowout preventers.

(2) EXCEPTIONS.—The Secretary and the Secretary of the Interior may waive the standards established by the regulations required by paragraph (1) for a system of an existing vessel or structure if—

(A) such system is of an age or type for which meeting such requirements is impractical; and

(B) such system poses an acceptably low level of risk to the environment and to human safety.

(3) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to alter or limit the authority and responsibility of the Secretary or the Secretary of the Interior provided by this or any other Act. The regulations required by paragraph (1) shall be supplemental to any other regulation issued by the Secretary or the Secretary of the Interior under any other provisions of law.

SEC. 627. NAVIGATIONAL MEASURES FOR PROTECTION OF NATURAL RESOURCES.

(a) DESIGNATION OF AT-RISK AREAS.—The Commandant of the Coast Guard, in consultation the Under Secretary for Oceans and Atmosphere, shall identify areas in waters subject to the jurisdiction of the United States in which routing or other navigational measures are warranted to reduce the risk of oil spills and potential damage to natural resources. In identifying such areas, the Commandant shall give priority consideration to natural resources of particular ecological importance or economic importance, including—

(1) commercial fisheries;

(2) aquaculture facilities;

(3) marine sanctuaries designated by the Secretary of Commerce pursuant to the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.);

(4) estuaries of national significance designated under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(5) critical habitat, as defined in section 3(5) of the Endangered Species Act of 1973 (16 U.S.C. 1532(5));

(6) estuarine research reserves within the National Estuarine Research Reserve System established by section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461); and

(7) national parks and national seashores administered by the National Park Service under the National Park Service Organic Act (16 U.S.C. 1 et seq.).

(b) FACTORS CONSIDERED.—In determining whether navigational measures are warranted for an area under subsection (a), the Commandant and the Under Secretary for Oceans and Atmosphere shall consider, at a minimum—

(1) the frequency of transits of vessels which are required to prepare a response plan under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j));

(2) the type and quantity of oil transported as cargo or fuel;

(3) the expected benefits of routing measures in reducing risks of spills;

(4) the costs of such measures;

(5) the safety implications of such measures; and

(6) the nature and value of the resources to be protected by such measures.

(c) ESTABLISHMENT OF ROUTING AND OTHER NAVIGATIONAL MEASURES.—The Commandant shall establish such routing or other navigational measures for areas identified under subsection (a).

(d) ESTABLISHMENT OF AREAS TO BE AVOIDED.—To the extent that the Commandant and the Under Secretary for Oceans and Atmosphere identify areas in which navigational measures are warranted for an area under subsection (a), the Secretary and the Under Secretary shall seek to establish such areas through the International Maritime Organization or establish comparable areas pursuant to regulations and in a manner that is consistent with international law.

(e) OIL SHIPMENT DATA AND REPORT.—

(1) DATA COLLECTION.—The Commandant of the Coast Guard, in consultation with the Chief of Engineers, shall analyze data on oil transported as cargo on vessels in the navigable waters of the United States, including information on—

(A) the quantity and type of oil being transported;

(B) the vessels used for such transportation;

(C) the frequency with which each type of oil is being transported; and

(D) the point of origin, transit route, and destination of each such shipment of oil.

(2) QUARTERLY REPORT.—

(A) REQUIREMENT FOR QUARTERLY REPORT.—The Secretary shall, not less frequently than once each calendar quarter, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the data collected and analyzed under paragraph (1).

(B) FORMAT.—Each report submitted under subparagraph (A) shall be submitted in a format that does not disclose information exempted from disclosure.

SEC. 628. NOTICE TO STATES OF BULK OIL TRANSFERS.

(a) IN GENERAL.—A State may, by law, require a person to provide notice of 24 hours or more to the State and to the Coast Guard prior to transferring oil in bulk as cargo in an amount equivalent to 250 barrels or more to, from, or within a vessel in State waters.

(b) COAST GUARD ASSISTANCE.—The Commandant of the Coast Guard may assist a State in developing appropriate methodologies for joint Federal and State notification of an oil transfer described in subsection (a) to minimize any potential burden to vessels.

SEC. 629. GULF OF MEXICO REGIONAL CITIZENS' ADVISORY COUNCIL.

(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the President shall establish a Gulf of Mexico Regional Citizens' Advisory Council (hereinafter in this section referred to as the ''Council'').

(b) GOAL.—The goal of the Council shall be to foster more effective engagement by interested stakeholders and local communities in providing relevant Federal agencies and the energy industry with advice on energy, safety, health, maritime, national defense, and environmental aspects of offshore energy and minerals production in the Gulf of Mexico.

(c) PARTICIPATION.—In establishing the Council, the President shall provide for the appropriate participation by relevant stakeholders located in the coastal areas of the Gulf of Mexico, including—

(1) the commercial fin, shellfish, and charter fishing industries;

(2) the tourism, hotel, and restaurant industries;

(3) socially vulnerable communities, including both indigenous and non-indigenous communities;

(4) marine and coastal conservation entities;

(5) incorporated and unincorporated municipalities; and

(6) other appropriate entities.

(d) CONSIDERATION.—In establishing the Council, the President shall take into account the experience of Federal government and industry in working with the Prince William Sound Regional Citizens' Advisory Council to promote the environmentally safe operation of the Alyeska Pipeline marine terminal in Valdez, Alaska, and the oil tankers that use it.

(e) REPORT TO CONGRESS PRIOR TO ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a plan for the appointment and operation of the Council. The report shall include a description of—

(1) the legal form proposed for the Council;

(2) the duties proposed for the Council;

(3) the manner in which the work of the Council would relate to—

(A) the execution by relevant Federal agencies of their respective statutory authorities; and

(B) the activities of the energy industry;

(4) the manner in which the appointments would be made to the Council to ensure balanced representation of all relevant stakeholders with respect to the goal of the Council;

(5) the manner in which advice and recommendations from the Council would be treated by the relevant Federal agencies and the energy industry;

(6) provisions relating to conflict of interest and protection of sensitive or confidential information that may be shared with the Council; and

(7) the manner in which the activities of the Council would be financially supported.

(f) ANNUAL REPORTS.—The President shall require that an annual report be submitted to Congress on the activities of the Council.

SEC. 630. VESSEL LIABILITY.

(a) IN GENERAL.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended by striking paragraph (1) and inserting the following:

''(1) for a vessel that is—

''(A) a tank ship that is a single-hull vessel, including a single hull vessel fitted with double sides only or a double bottom only, $3,300 per gross ton or $93,600,000, whichever is greater;

''(B) a tank ship that is a double-hull vessel, $1,900 per gross ton or $16,000,000, whichever is greater;

''(C) a tank barge that is a single-hull vessel, including a single-hull vessel fitted with double sides only or a double bottom only, $7,000 per gross ton or $29,100,000, whichever is greater; or

''(D) a tank barge that is a double-hull vessel, $7,000 per gross ton or $10,000,000, whichever is greater;''.

(b) DEFINITIONS.—Section 1001(34) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(34)) is amended—

(1) by redesignating subparagraphs (A),(B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by striking '' 'tank vessel' means'' and inserting ''(A) 'tank vessel' means''; and

(3) by inserting at the end the following:

''(B) 'tank barge' means a non-self-propelled tank vessel; and

''(C) 'tank ship' means a self-propelled tank vessel;''.

SEC. 631. PROMPT INTERGOVERNMENTAL NOTICE OF MARINE CASUALTIES.

Section 6101 of title 46, United States Code, is amended by adding at the end the following:

''(j) NOTICE TO STATES AND TRIBAL GOVERNMENTS.—

''(1) REQUIREMENT TO NOTIFY.—Not later than 1 hour after receiving a report of a marine casualty under this section, the Secretary shall forward the report to each appropriate State agency and tribal government of an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) that has jurisdiction concurrent with the United States or adjacent to waters in which the marine casualty occurred.

''(2) APPROPRIATE STATE AGENCY.—Each State shall identify for the Secretary the appropriate State agency to receive a report under paragraph (1). Such agency shall be responsible for forwarding appropriate information related to such report to local and tribal governments within the State.''.

SEC. 632. PROMPT PUBLICATION OF OIL SPILL INFORMATION.

(a) IN GENERAL.—In any response to an oil spill in which the Commandant of the Coast Guard serves as the Federal On-Scene Coordinator leading a Unified Command, the Commandant, on a publicly accessible website, shall publish all written Incident Action Plans prepared and approved as a part of the response to such oil spill.

(b) TIMELINESS AND DURATION.—The Commandant shall—

(1) publish each Incident Action Plan pursuant to subsection (a) promptly after such Plan is approved for implementation by the Unified Command, and in no event later than 12 hours into the operational period for which such Plan is prepared; and

(2) ensure that such plan remains remain publicly accessible by website for the duration of the response to oil spill.

(c) REDACTION OF PERSONAL INFORMATION.—The Commandant may redact information from an Incident Action Plans published pursuant to subsection (a) to the extent necessary to comply with applicable privacy laws and other requirements regarding personal information.

SEC. 633. LEAVE RETENTION AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 425 the following:

''§ 426. Emergency leave retention authority

''(a) IN GENERAL.—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

''(b) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' has the meaning given that term in section 1001(7) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(7)).

''(2) SPILL OF NATIONAL SIGNIFICANCE.—The term 'spill of national significance' means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 425 the following:

''426. Emergency leave retention authority.''.

TITLE VII—CATASTROPHIC INCIDENT PLANNING

SEC. 701. CATASTROPHIC INCIDENT PLANNING.

(a) CATASTROPHIC INCIDENT PLANNING INITIATIVE.—Chapter 1 of subtitle C of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741 et seq.) is amended by adding at the end the following:

''SEC. 655. CATASTROPHIC INCIDENT PLANNING.

''(a) DEFINITIONS.—In this section—

''(1) the term 'catastrophic incident plan' means a plan to prevent, prepare for, protect against, respond to, and recover from catastrophic incidents;

''(2) the term 'critical infrastructure' has the meaning given that term in section 1016(e) of the USA PATRIOT Act (42 U.S.C. 5195c(e)); and

''(3) the term 'National Response Framework' means the successor document to the National Response Plan issued in January 2008, or any other successor plan prepared under section 504(a)(6) of the Homeland Security Act of 2002 (6 U.S.C. 314(a)(6)).

''(b) COORDINATED PLANNING.—

''(1) IN GENERAL.—The President shall ensure that there is a coordinated system of catastrophic incident plans throughout the Federal Government.

''(2) IMPLEMENTATION.—In carrying out paragraph (1), the President shall—

''(A) identify risks of catastrophic incidents, including across all critical infrastructure sectors;

''(B) prioritize risks of catastrophic incidents to determine for which risks the development of catastrophic incident plans is most necessary or likely to be most beneficial;

''(C) ensure that Federal agencies coordinate to develop comprehensive and effective catastrophic incident plans to address prioritized catastrophic risks; and

''(D) review catastrophic incident plans developed by Federal agencies to ensure the effectiveness of the plans, including assessing whether—

''(i) the assumptions underlying the catastrophic incident plans are realistic;

''(ii) the resources identified to implement the catastrophic incident plans are adequate, including that the catastrophic incident plans address the need for surge capacity;

''(iii) exercises designed to evaluate the catastrophic incident plans are adequate;

''(iv) the catastrophic incident plans incorporate lessons learned from other catastrophic incidents, include those in other countries, where appropriate;

''(v) the catastrophic incident plans appropriately account for new events and situations;

''(vi) the catastrophic incident plans adequately address the need for situational awareness and information sharing;

''(vii) the number, skills, and training of the available workforce is sufficient to implement the catastrophic incident plans;

''(viii) the catastrophic incident plans reflect coordination with governmental and nongovernmental entities that would play a significant role in the response to the catastrophic incident; and

''(ix) the catastrophic incident plans set forth a clear command structure and allocation of responsibilities consistent with the National Response Framework and the National Incident Management System.

''(c) REPORT.—Not later than 1 year after the date of enactment of the Clean Energy Jobs and Oil Company Accountability Act of 2010, and annually thereafter until December 31, 2020, the President shall submit a report to the appropriate committees of Congress that includes—

''(1) a discussion of the status of catastrophic incident planning efforts required under this section, including a list of all catastrophic incident plans in progress or completed; and

''(2) a report on planning efforts by Federal agencies required under section 653, including any certification under subsection 653(d).''.

(b) OFFICE OF CATASTROPHIC PLANNING.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''SEC. 525. CATASTROPHIC INCIDENT PLANNING.

''(a) DEFINITION.—In this section, the term 'catastrophic incident plan' means a plan to prevent, prepare for, protect against, respond to, and recover from a catastrophic incident.

''(b) ESTABLISHMENT.—The Secretary shall establish an Office of Catastrophic Planning in the Agency, which shall be headed by a Director of Catastrophic Planning.

''(c) MISSION.—The mission of the Office of Catastrophic Planning shall be to lead efforts within the Department, and to support, promote, and coordinate efforts throughout the Federal Government, by State, local and tribal governments, and by the private sector, to plan effectively to prevent, prepare for, protect against, respond to, and recover from catastrophic incidents, whether natural disasters, acts of terrorism, or other man-made disasters.

''(d) RESPONSIBILITIES.—The responsibilities of the Director of Catastrophic Planning shall include—

''(1) assisting the President and Federal agencies in identifying risks of catastrophic incidents for which planning is likely to be most needed or beneficial, including risks across all critical infrastructure sectors;

''(2) leading the efforts of the Department to prepare catastrophic incident plans to address risks in the areas of responsibility of the Department;

''(3) providing support to other Federal agencies by—

''(A) providing guidelines, standards, training, and technical assistance to assist the agencies in developing effective catastrophic incident plans in the areas of responsibility of the agencies;

''(B) assisting the agencies in the assessment of the catastrophic incident plans of the agencies, including through assistance with the design and evaluation of exercises; and

''(C) assisting the agencies in developing tools to meaningfully evaluate catastrophic incident plans submitted to the agency by private sector entities;

''(4) ensuring coordination with State, local, and tribal governments in the development of Federal catastrophic incident plans;

''(5) providing assistance to State, local, and tribal governments in developing catastrophic incident plans, including supporting the development of catastrophic incident annexes under section 613 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b);

''(6) promoting and supporting appropriate catastrophic incident planning by private sector entities, including private sector entities that own or manage critical infrastructure;

''(7) promoting the training and education of additional emergency planners;

''(8) assisting the Administrator in the preparation of the catastrophic resource report required under section 652(b) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752(b));

''(9) assisting the President in ensuring consistency and coordination across Federal catastrophic incident plans; and

''(10) otherwise assisting the President in implementing section 655 of the Post-Katrina Emergency Management Reform Act of 2006.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out this section, for each of fiscal years 2011 through 2020.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 524 the following:

''Sec. 525. Catastrophic incident planning.''.

SEC. 702. ALIGNMENT OF RESPONSE FRAMEWORKS.

(a) DEFINITIONS.—In this section—

(1) the term ''National Response Framework'' means the successor document to the National Response Plan issued in January 2008, or any other successor plan prepared under section 504(a)(6) of the Homeland Security Act of 2002 (6 U.S.C. 314(a)(6));

(2) the term ''National Contingency Plan'' means the National Contingency Plan prepared under section 311(d) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) or revised under section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9605); and

(3) the term ''plans'' means the National Response Framework, the National Contingency Plan, and any other plan the Secretary of Homeland Security and the Administrator of the Environmental Protection Agency jointly determine plays a significant role in guiding the response by the Federal Government to the discharge of oil or other hazardous substances.

(b) ALIGNMENT OF PLANS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security (in coordination with the Administrator of the Federal Emergency Management Agency and the Commandant of the Coast Guard) and the Administrator of the Environmental Protection Agency, in conjunction with the head of any other Federal agency determined appropriate by the President, shall review the plans and submit to Congress a report regarding—

(1) the coordination and consistency between the plans, including with respect to—

(A) unified command and reporting structures;

(B) relationships with State, local, and tribal governments; and

(C) assignment of support responsibilities among Federal agencies;

(2) lessons learned from an initial post-incident analysis of the implementation of the plans during the response by the Federal Government to the discharge of oil arising from the explosion on and sinking of the mobile offshore drilling unit *Deepwater Horizon*;

(3) recommendations for modifications to the plans to ensure coordination and, where appropriate, consistency between the plans and to maximize the purpose of each plan, consistent with statutory authorities;

(4) planned actions to address any modifications recommended under paragraph (3); and

(5) how the plans will be integrated in the event of a disaster occurring after the date of the report involving a discharge of oil or other hazardous material.

(c) SAVINGS CLAUSE.—Nothing in this section requires a modification to the National Contingency Plan or the National Response Framework or affects the authority of the Administrator of the Environmental Protection Agency or the Secretary of Homeland Security to modify or carry out the National Contingency Plan or the National Response Framework.

TITLE VIII—SUBPOENA POWER FOR NATIONAL COMMISSION ON THE BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING

SEC. 801. SUBPOENA POWER FOR NATIONAL COMMISSION ON THE BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING.

(a) SUBPOENA POWER.—The National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling established by Executive Order No. 13543 of May 21, 2010 (referred to in this section as the ''Commission''), may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, and other documents.

(b) ISSUANCE.—

(1) AUTHORIZATION.—A subpoena may be issued under this section only by—

(A) agreement of the Co-Chairs of the Commission; or

(B) the affirmative vote of a majority of the members of the Commission.

(2) JUSTICE DEPARTMENT COORDINATION.—

(A) NOTIFICATION.—

(i) IN GENERAL.—The Commission shall notify the Attorney General or designee of the intent of the Commission to issue a subpoena under this section, the identity of the witness, and the nature of the testimony sought before issuing such a subpoena.

(ii) FORM AND CONTENT.—The form and content of the notice shall be set forth in the guidelines to be issued under subparagraph (D).

(B) CONDITIONS FOR OBJECTION TO ISSUANCE.—The Commission may not issue a subpoena under authority of this section if the Attorney General objects to the issuance of the subpoena on the basis that the taking of the testimony is likely to interfere with any—

(i) Federal or State criminal investigation or prosecution; or

(ii) pending investigation under sections 3729 through 3732 of title 31, United States Code (commonly known as the ''Civil False Claims Act'') or other Federal law providing for civil remedies, or any civil litigation to which the United States or any Federal agencies is or is likely to be a party.

(C) NOTIFICATION OF OBJECTION.—The Attorney General or relevant United States Attorney shall notify the Commission of an objection raised under this paragraph without unnecessary delay and as set forth in the guidelines to be issued under subparagraph (D).

(D) GUIDELINES.—As soon as practicable, but no later than 30 days after the date of the enactment of this Act, the Attorney General, after consultation with the Commission, shall issue guidelines to carry out this subsection.

(3) SIGNATURE AND SERVICE.—A subpoena issued under this section may be—

(A) issued under the signature of either Co-Chair or any member designated by a majority of the Commission; and

(B) served by any person designated by the Co-Chairs or a member designated by a majority of the Commission.

(c) ENFORCEMENT.—

(1) REQUIRED PROCEDURES.—

(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this section or refusal by the person to comply with the subpoena, the Commission shall request the Attorney General to seek enforcement of the subpoena.

(B) ENFORCEMENT.—On such request, the Attorney General shall seek enforcement of the subpoena in a court described in paragraph (2).

(C) ORDER.—The court in which the Attorney General seeks enforcement of the subpoena—

(i) shall issue an order requiring the subpoenaed person to appear at any designated place to testify or to produce documentary or other evidence; and

(ii) may punish any failure to obey the order as a contempt of that court.

(2) JURISDICTION FOR ENFORCEMENT.—Any United States district court for a judicial district in which a person issued a subpoena under this section resides, is served, or may be found, or in which the subpoena is returnable, shall have jurisdiction to enforce the subpoena as provided in paragraph (1).

TITLE IX—CORAL REEF CONSERVATION ACT AMENDMENTS

SEC. 901. SHORT TITLE.

This title may be cited as the ''Coral Reef Conservation Amendments Act of 2010''.

SEC. 902. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 903. AGREEMENTS; REDESIGNATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating section 208 (16 U.S.C. 6407) as section 213;

(2) by redesignating section 209 (16 U.S.C. 6408) as section 214; and

(3) by redesignating section 210 (16 U.S.C. 6409) as section 215.

SEC. 904. EMERGENCY ASSISTANCE.

Section 206 (16 U.S.C. 6405) is amended to read as follows:

''SEC. 206. EMERGENCY ASSISTANCE.

''The Secretary, in cooperation with the Administrator of the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 905. EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.

Section 207 (16 U.S.C. 6406) is amended to read as follows:

''SEC. 207. EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.

''(a) ESTABLISHMENT OF ACCOUNT.—The Secretary shall establish an account (to be called the 'Emergency Response, Stabilization, and Restoration Account') in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (Public Law 101–515; 33 U.S.C. 2706 note), for implementation of this title for emergency actions.

''(b) DEPOSITS.—

''(1) DEPOSITS.—There shall be deposited in the Emergency Response, Stabilization, and Restoration Account amounts as follows:

''(A) Amounts appropriated for the Account.

''(B) Amounts received by the United States pursuant to this title.

''(C) Amounts otherwise authorized for deposit in the Account by this title.

''(2) AVAILABILITY OF DEPOSITS.—Amounts deposited in the Account shall be available for use by the Secretary for emergency response, stabilization, and restoration activities under this title.''.

SEC. 906. PROHIBITED ACTIVITIES.

(a) IN GENERAL.—The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 207 the following:

''SEC. 208. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''(a) PROVISIONS AS COMPLEMENTARY.—The provisions of this section are in addition to,

and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

''(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

''(2) EXCEPTIONS.—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

''(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

''(B) was caused by an activity that is authorized or allowed by Federal or State law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

''(D)(i) was caused by a Federal Government agency during—

''(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

''(II) an emergency that posed a threat to national security; or

''(III) an activity necessary for law enforcement or search and rescue; and

''(ii) could not reasonably be avoided; or

''(E) was caused by an action taken by the master of the vessel in an emergency situation to ensure the safety of the vessel or to save a life at sea.

''(c) INTERFERENCE WITH ENFORCEMENT.—It is unlawful for any person to interfere with the enforcement of this title by—

''(1) refusing to permit any officer authorized to enforce this title to board a vessel (other than a vessel operated by the Department of Defense or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

''(2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

''(3) submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title.

''(d) VIOLATIONS OF TITLE, PERMIT, OR REGULATION.—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

''(e) POSSESSION AND DISTRIBUTION.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.''.

(b) EMERGENCY ACTION REGULATIONS.—The Secretary of Commerce shall initiate a rulemaking proceeding to prescribe the circumstances and conditions under which the exception in section 208(b)(2)(E) of the Coral Reef Conservation Act of 2000, as added by subsection (a), applies and shall issue a final rule pursuant to that rulemaking as soon as practicable but not later than 1 year after the date of the enactment of this Act. Nothing in this subsection shall be construed to require the issuance of such regulations before the exception provided by that section is in effect.

SEC. 907. DESTRUCTION OF CORAL REEFS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 208, as added by section 906 of this title, the following:

''SEC. 209. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsections (b) or (d) of section 208, or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(2) LIABILITY IN REM.—

''(A) IN GENERAL.—Any vessel used in an activity that is prohibited under subsection (b) or (d) of section 208, or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(B) MARITIME LIENS.—The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person or vessel is not liable under this subsection if that person or vessel establishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person or master of the vessel acted with due care.

''(4) NO LIMIT TO LIABILITY.—Nothing in chapter 305 or section 30706 of title 46, United States Code, shall limit liability to any person under this title.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) IN GENERAL.—The Secretary shall assess damages to coral reefs and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) PROHIBITION ON DOUBLE RECOVERY.—There shall be no double recovery under this title for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

''(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person or vessel may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel;

''(C) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(D) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—

''(1) IN GENERAL.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(A) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;

''(B) be available for use by the Secretary without further appropriation and remain available until expended; and

''(C) be for use, as the Secretary considers appropriate—

''(i) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) of this section for costs incurred in conducting the activity;

''(ii) to be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and

''(iii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(2) RESTORATION CONSIDERATIONS.—In development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, shall prioritize restoration projects with geographic and ecological linkages to the injured resources.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed not later than 3 years after the

date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 908. ENFORCEMENT.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 209, as added by section 907 of this title, the following:

''SEC. 210. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this title.

''(b) POWERS OF AUTHORIZED OFFICERS.—

''(1) IN GENERAL.—Any person who is authorized to enforce this title may—

''(A) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel, except that such authority shall not exist with respect to vessels owned or time chartered by a uniformed service (as defined in section 101 of title 10, United States Code) as warships or naval auxiliaries;

''(B) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(C) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(D) execute any warrant or other process issued by any court of competent jurisdiction;

''(E) exercise any other lawful authority; and

''(F) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 208.

''(2) NAVAL AUXILIARY DEFINED.—In this subsection, the term 'naval auxiliary' means a vessel, other than a warship, that is owned by or under the exclusive control of a uniformed service and used at the time of the destruction, take, loss, or injury for government, non-commercial service, including combat logistics force vessels, pre-positioned vessels, special mission vessels, or vessels exclusively used to transport military supplies and materials.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—

''(A) IN GENERAL.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued hereunder, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary.

''(B) CONTINUING VIOLATIONS.—Each day of a continuing violation shall constitute a separate violation.

''(C) DETERMINATION OF AMOUNT.—In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require.

''(D) CONSIDERATION OF ABILITY TO PAY.—In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

''(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this title, and who violates this title or any regulation or permit issued under this title, the Secretary may deny, suspend, amend, or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this title.

''(3) IMPOSITION OF CIVIL JUDICIAL PENALTIES.—

''(A) IN GENERAL.—Any person who violates any provision of this title, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation.

''(B) CONTINUING VIOLATIONS.—Each day of a continuing violation shall constitute a separate violation.

''(C) CIVIL ACTIONS.—The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require.

''(D) AMOUNTS OF CIVIL PENALTIES.—In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require.

''(E) CONSIDERATION OF ABILITY TO PAY.—In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

''(5) IN REM JURISDICTION.—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—

''(A) IN GENERAL.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order).

''(B) NOT SUBJECT TO REVIEW.—In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

''(C) ATTORNEY'S FEES, COSTS, AND NONPAYMENT PENALTY.—

''(i) IN GENERAL.—Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists.

''(ii) AMOUNT OF NONPAYMENT PENALTY.—Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

''(8) JURISDICTION.—

''(A) IN GENERAL.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section.

''(B) AMERICAN SAMOA.—For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

''(C) TREATMENT OF VIOLATIONS.—Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

''(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—

''(A) IN GENERAL.—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

''(i) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(ii) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(B) APPLICATION OF CERTAIN PROVISIONS OF CONTROLLED SUBSTANCES ACT.—Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) other than subsection (d) thereof shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—The property set forth below shall be subject to forfeiture to the United States in accordance with the provisions of chapter 46 of title 18, United States Code, and no property right shall exist in it:

''(A) Any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof).

''(B) Any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF CUSTOMS LAWS.—

''(A) IN GENERAL.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the

compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof.

''(B) AUTHORITY FOR ACTIONS BY SECRETARY.—For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) DEPOSIT AND AVAILABILITY.—Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) USE OF FORFEITURES AND COSTS.—Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

''(3) USE OF CIVIL PENALTIES.—Amounts received under this section as civil penalties under subsection (c) of this section and any amounts remaining after the operation of paragraph (2) of this subsection shall—

''(A) be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 207(a) or an account described in section 209(d)(1), to reimburse such account for amounts used for authorized emergency actions;

''(C) be used to conduct monitoring and enforcement activities;

''(D) be used to conduct research on techniques to stabilize and restore coral reefs;

''(E) be used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) be used to stabilize, restore or otherwise manage any other coral reef; or

''(G) be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.

''(g) CRIMINAL ENFORCEMENT.—

''(1) INTERFERENCE WITH ENFORCEMENT.—Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 208(c) of this title shall be imprisoned for not more than 5 years and shall be fined not more than $500,000 for individuals or $1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than 10 years.

''(2) OTHER KNOWING VIOLATIONS .—Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (b), (d), or (e) of section 208 shall be fined under title 18, United States Code, or imprisoned not more than 5 years or both.

''(3) OTHER UNKNOWING VIOLATIONS.—Any person (other than a foreign government or any entity of such government) who violates subsection (b), (d), or (e) of section 208, and who, in the exercise of due care should know that such person's conduct violates subsection (b), (d), or (e) of section 208, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

''(4) JURISDICTION.—

''(A) IN GENERAL.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection.

''(B) AMERICAN SAMOA.—For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

''(C) TREATMENT OF VIOLATIONS.—Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

''(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the Under Secretary for Oceans and Atmosphere which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) INJUNCTIVE RELIEF BY SECRETARY.—

''(A) IN GENERAL.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 209 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both.

''(B) JURISDICTION.—The district courts of the Unites States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) INJUNCTIVE RELIEF BY ATTORNEY GENERAL.—Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this title, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(1) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(2) the vessel is located, in the case of an action against a vessel;

''(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(4) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(n) UNIFORMED SERVICE OFFICERS AND EMPLOYEES.—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer's or employee's personal or official capacity, for any violation of section 208 occurring during the performance of the officer's or employee's official governmental duties.

''(o) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined), serving as vessel master or crew member, shall be liable under this section for any violation of section 208 if that contract employee—

''(1) is acting as a contract employee of a uniformed service under the terms of an operating contract for a vessel owned by a uniformed service, or a time charter for pre-positioned vessels, special mission vessels, or vessels exclusively transporting military supplies and materials; and

''(2) is engaged in an action or actions over which such employee has been given no discretion (e.g., anchoring or mooring at one or more designated anchorages or buoys, or executing specific operational elements of a special mission activity), as determined by the uniformed service controlling the contract.''.

SEC. 909. REGULATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 210, as added by section 908 of this title, the following:

"SEC. 211. REGULATIONS.

''(a) IN GENERAL.—The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title.

''(b) APPLICATION IN ACCORDANCE WITH INTERNATIONAL LAW.—This title and any regulations promulgated under this title shall be applied in accordance with international law.

''(c) LIMITATIONS WITH RESPECT TO CITIZENSHIP STATUS.—No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 910. JUDICIAL REVIEW.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 211, as added by section 909 of this title, the following:

"SEC. 212. JUDICIAL REVIEW.

''(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is not applicable to any action taken by the Secretary under this title, except that—

''(1) review of any final agency action of the Secretary taken pursuant to sections 210(c)(1) and 210(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such complaint must be filed within 30 days of the date such final agency action is taken; and

''(2) review of any final agency action of the Secretary taken pursuant to other provisions of this title may be had by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the federal judicial district in which such person resides or transact business which is directly affected by the action taken; such petition shall be filed within 120 days from the date such final agency action is taken.

''(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

''(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.''.

DIVISION B—REDUCING OIL CONSUMPTION AND IMPROVING ENERGY SECURITY

TITLE XX—NATURAL GAS VEHICLE AND INFRASTRUCTURE DEVELOPMENT

SEC. 2001. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INCREMENTAL COST.—The term ''incremental cost'' means the difference between—

(A) the suggested retail price of a manufacturer for a qualified alternative fuel vehicle; and

(B) the suggested retail price of a manufacturer for a vehicle that is—

(i) powered solely by a gasoline or diesel internal combustion engine; and

(ii) comparable in weight, size, and use to the vehicle.

(3) MIXED-FUEL VEHICLE.—The term ''mixed-fuel vehicle'' means a mixed-fuel vehicle (as defined in section 30B(e)(5)(B) of the Internal Revenue Code of 1986) (including vehicles with a gross vehicle weight rating of 14,000 pounds or less) that uses a fuel mix that is comprised of at least 75 percent compressed natural gas or liquefied natural gas.

(4) NATURAL GAS REFUELING PROPERTY.—The term ''natural gas refueling property'' means units that dispense at least 85 percent by volume of natural gas, compressed natural gas, or liquefied natural gas as a transportation fuel.

(5) QUALIFIED ALTERNATIVE FUEL VEHICLE.—The term ''qualified alternative fuel vehicle'' means a vehicle manufactured for use in the United States that is—

(A) a new compressed natural gas- or liquefied natural gas-fueled vehicle that is only capable of operating on natural gas;

(B) a vehicle that is capable of operating for more than 175 miles on 1 fueling of compressed or liquefied natural gas and is capable of operating on gasoline or diesel fuel, including vehicles with a gross vehicle weight rating of 14,000 pounds or less.

(6) QUALIFIED MANUFACTURER.—The term ''qualified manufacturer'' means a manufacturer of qualified alternative fuel vehicles or any component designed specifically for use in a qualified alternative fuel vehicle.

(7) QUALIFIED OWNER.—The term ''qualified owner'' means an individual that purchases a qualified alternative fuel vehicle for use or lease in the United States but not for resale.

(8) QUALIFIED REFUELER.—The term ''qualified refueler'' means the owner or operator of natural gas refueling property.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 2002. PROGRAM ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department a Natural Gas Vehicle and Infrastructure Development Program for the purpose of facilitating the use of natural gas in the United States as an alternative transportation fuel, in order to achieve the maximum feasible reduction in domestic oil use.

(b) CONVERSION OR REPOWERING OF VEHICLES.—The Secretary shall establish a rebate program under this title for qualified owners who convert or repower a conventionally fueled vehicle to operate on compressed natural gas or liquefied natural gas, or to a mixed-fuel vehicle or a bi-fuel vehicle.

SEC. 2003. REBATES.

(a) INTERIM FINAL RULE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary considers necessary to administer the rebates required under this section.

(2) ADMINISTRATION.—The interim final rule shall establish a program that provides—

(A) rebates to qualified owners for the purchase of qualified alternative fuel vehicles; and

(B) priority to those vehicles that the Secretary determines are most likely to achieve the shortest payback time on investment and the greatest market penetration for natural gas vehicles.

(3) ALLOCATION.—Of the amount allocated for rebates under this section, not more than 25 percent shall be used to provide rebates to qualified owners for the purchase of qualified alternative fuel vehicles that have a gross vehicle rating of not more than 8,500 pounds.

(b) REBATES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide rebates for 90 percent of the incremental cost of a qualified alternative fuel vehicle to a qualified owner for the purchase of a qualified alternative fuel vehicles.

(2) MAXIMUM VALUES.—

(A) NATURAL GAS VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner who places a qualified alternative fuel vehicle into service by 2013 shall be—

(i) $8,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of not more than 8,500 pounds;

(ii) $16,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 8,500 but not more than 14,000 pounds;

(iii) $40,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds; and

(iv) $64,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) MIXED–FUEL VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner who places a qualified alternative fuel vehicle that is a mixed-fuel vehicle into service by 2015 shall be 75 percent of the amount provided for rebates under this section for vehicles that are only capable of operating on natural gas.

(C) BI-FUEL VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner of a vehicle described in section 2001(5)(B) shall be 50 percent of the amount provided for rebates under this section for vehicles that are only capable of operating on natural gas.

(c) TREATMENT OF REBATES.—For purposes of the Internal Revenue Code of 1986, rebates received for qualified alternative fuel vehicles under this section—

(1) shall not be considered taxable income to a qualified owner;

(2) shall prohibit the qualified owner from applying for any tax credit allowed under that Code for the same qualified alternative fuel vehicle; and

(3) shall be considered a credit described in paragraph (2) for purposes of any limitation on the amount of the credit.

(d) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $3,800,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 2004. INFRASTRUCTURE AND DEVELOPMENT GRANTS.

(a) INTERIM FINAL RULE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing an infrastructure deployment program and a manufacturing development program, and any implementing regulations that the Secretary considers necessary, to achieve the maximum practicable cost-effective program to provide grants under this section.

(b) GRANTS.—The Secretary shall provide—

(1) grants of up to $50,000 per unit to qualified refuelers for the installation of natural gas refueling property placed in service between 2011 and 2015; and

(2) grants in amounts determined to be appropriate by the Secretary to qualified manufacturers for research, development, and demonstration projects on engines with reduced emissions, improved performance, and lower cost.

(c) COST SHARING.—Grants under this section shall be subject to the cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(d) MONITORING.—The Secretary shall—

(1) require regular reporting of such information as the Secretary considers necessary to effectively administer the program from grant recipients under this section; and

(2) conduct on-site and off-site monitoring to ensure compliance with grant terms.

(e) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury

shall transfer to the Secretary to carry out this section $500,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 2005. LOAN PROGRAM TO ENHANCE DOMESTIC MANUFACTURING.

(a) INTERIM FINAL RULE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing a direct loan program to provide loans to qualified manufacturers to pay not more than 80 percent of the cost of reequipping, expanding, or establishing a facility in the United States that will be used for the purpose of producing any new qualified alternative fuel motor vehicle or any eligible component.

(b) OVERALL COMMITMENT LIMIT.—Commitments for direct loans under this section shall not exceed $2,000,000,000 in total loan principal.

(c) COST OF DIRECT LOANS.—The cost of direct loans under this section (including the cost of modifying the loans) shall be determined in accordance with section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(d) ADDITIONAL FINANCIAL AND TECHNICAL PERSONNEL.—Section 621(d) of the Department of Energy Organization Act (42 U.S.C. 7231(d)) is amended by striking ''two hundred'' and inserting ''250''.

(e) FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary for the cost of loans to carry out this section $200,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

TITLE XXI—PROMOTING ELECTRIC VEHICLES

SEC. 2101. SHORT TITLE.

This title may be cited as the ''Promoting Electric Vehicles Act of 2010''.

SEC. 2102. DEFINITIONS.

In this title:

(1) AGENCY.—The term ''agency'' has the meaning given the term ''Executive agency'' in section 105 of title 5, United States Code.

(2) CHARGING INFRASTRUCTURE.—The term ''charging infrastructure'' means any property (not including a building) if the property is used for the recharging of plug-in electric drive vehicles, including electrical panel upgrades, wiring, conduit, trenching, pedestals, and related equipment.

(3) COMMITTEE.—The term ''Committee'' means the Plug-in Electric Drive Vehicle Technical Advisory Committee established by section 2134.

(4) DEPLOYMENT COMMUNITY.—The term ''deployment community'' means a community selected by the Secretary to be part of the targeted plug-in electric drive vehicles deployment communities program under section 2116.

(5) ELECTRIC UTILITY.—The term ''electric utility'' has the meaning given the term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(6) FEDERAL-AID SYSTEM OF HIGHWAYS.—The term ''Federal-aid system of highways'' means a highway system described in section 103 of title 23, United States Code.

(7) PLUG-IN ELECTRIC DRIVE VEHICLE.—

(A) IN GENERAL.—The term ''plug-in electric drive vehicle'' has the meaning given the term in section 131(a)(5) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011(a)(5)).

(B) INCLUSIONS.—The term ''plug-in electric drive vehicle'' includes—

(i) low speed plug-in electric drive vehicles that meet the Federal Motor Vehicle Safety Standards described in section 571.500 of title 49, Code of Federal Regulations (or successor regulations); and

(ii) any other electric drive motor vehicle that can be recharged from an external source of motive power and that is authorized to travel on the Federal-aid system of highways.

(8) PRIZE.—The term ''Prize'' means the Advanced Batteries for Tomorrow Prize established by section 2122.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) TASK FORCE.—The term ''Task Force'' means the Plug-in Electric Drive Vehicle Interagency Task Force established by section 2135.

Subtitle A—National Plug-in Electric Drive Vehicle Deployment Program.

SEC. 2111. NATIONAL PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT PROGRAM.

(a) IN GENERAL.—There is established within the Department of Energy a national plug-in electric drive vehicle deployment program for the purpose of assisting in the deployment of plug-in electric drive vehicles.

(b) GOALS.—The goals of the national program described in subsection (a) include—

(1) the reduction and displacement of petroleum use by accelerating the deployment of plug-in electric drive vehicles in the United States;

(2) the reduction of greenhouse gas emissions by accelerating the deployment of plug-in electric drive vehicles in the United States;

(3) the facilitation of the rapid deployment of plug-in electric drive vehicles;

(4) the achievement of significant market penetrations by plug-in electric drive vehicles nationally;

(5) the establishment of models for the rapid deployment of plug-in electric drive vehicles nationally, including models for the deployment of residential, private, and publicly available charging infrastructure;

(6) the increase of consumer knowledge and acceptance of plug-in electric drive vehicles;

(7) the encouragement of the innovation and investment necessary to achieve mass market deployment of plug-in electric drive vehicles;

(8) the facilitation of the integration of plug-in electric drive vehicles into electricity distribution systems and the larger electric grid while maintaining grid system performance and reliability;

(9) the provision of technical assistance to communities across the United States to prepare for plug-in electric drive vehicles; and

(10) the support of workforce training across the United States relating to plug-in electric drive vehicles.

(c) DUTIES.—In carrying out this subtitle, the Secretary shall—

(1) provide technical assistance to State, local, and tribal governments that want to create deployment programs for plug-in electric drive vehicles in the communities over which the governments have jurisdiction;

(2) perform national assessments of the potential deployment of plug-in electric drive vehicles under section 2112;

(3) synthesize and disseminate data from the deployment of plug-in electric drive vehicles;

(4) develop best practices for the successful deployment of plug-in electric drive vehicles;

(5) carry out workforce training under section 2114;

(6) establish the targeted plug-in electric drive vehicle deployment communities program under section 2116; and

(7) in conjunction with the Task Force, make recommendations to Congress and the President on methods to reduce the barriers to plug-in electric drive vehicle deployment.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the progress made in implementing the national program described in subsection (a) that includes—

(1) a description of the progress made by—

(A) the technical assistance program under section 2113; and

(B) the workforce training program under section 2114; and

(2) any updated recommendations of the Secretary for changes in Federal programs to promote the purposes of this subtitle.

(e) NATIONAL INFORMATION CLEARINGHOUSE.—The Secretary shall make available to the public, in a timely manner, information regarding—

(1) the cost, performance, usage data, and technical data regarding plug-in electric drive vehicles and associated infrastructure, including information from the deployment communities established under section 2116; and

(2) any other educational information that the Secretary determines to be appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out sections 2111 through 2113 $100,000,000 for the period of fiscal years 2011 through 2016.

SEC. 2112. NATIONAL ASSESSMENT AND PLAN.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall carry out a national assessment and develop a national plan for plug-in electric drive vehicle deployment that includes—

(1) an assessment of the maximum feasible deployment of plug-in electric drive vehicles by 2020 and 2030;

(2) the establishment of national goals for market penetration of plug-in electric drive vehicles by 2020 and 2030;

(3) a plan for integrating the successes and barriers to deployment identified by the deployment communities program established under section 2116 to prepare communities across the Nation for the rapid deployment of plug-in electric drive vehicles;

(4) a plan for providing technical assistance to communities across the United States to prepare for plug-in electric drive vehicle deployment;

(5) a plan for quantifying the reduction in petroleum consumption and the net impact on greenhouse gas emissions due to the deployment of plug-in electric drive vehicles; and

(6) in consultation with the Task Force, any recommendations to the President and to Congress for changes in Federal programs (including laws, regulations, and guidelines)—

(A) to better promote the deployment of plug-in electric drive vehicles; and

(B) to reduce barriers to the deployment of plug-in electric drive vehicles.

(b) UPDATES.—Not later than 2 years after the date of development of the plan described in subsection (a), and not less frequently than once every 2 years thereafter, the Secretary shall use market data and information from the targeted plug-in electric drive vehicle deployment communities program established under section 2116 and other relevant data to update the plan to reflect real world market conditions.

SEC. 2113. TECHNICAL ASSISTANCE.

(a) TECHNICAL ASSISTANCE TO STATE, LOCAL, AND TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In carrying out this subtitle, the Secretary shall provide, at the request of the Governor, Mayor, county executive, or the designee of such an official, technical assistance to State, local, and tribal governments to assist with the deployment of plug-in electric drive vehicles.

(2) REQUIREMENTS.—The technical assistance described in paragraph (1) shall include—

(A) training on codes and standards for building and safety inspectors;

(B) training on best practices for expediting permits and inspections;

(C) education and outreach on frequently asked questions relating to the various types of plug-in electric drive vehicles and associated infrastructure, battery technology, and disposal; and

(D) the dissemination of information regarding best practices for the deployment of plug-in electric drive vehicles.

(3) PRIORITY.—In providing technical assistance under this subsection, the Secretary shall give priority to—

(A) communities that have established public and private partnerships, including partnerships comprised of—

(i) elected and appointed officials from each of the participating State, local, and tribal governments;

(ii) relevant generators and distributors of electricity;

(iii) public utility commissions;

(iv) departments of public works and transportation;

(v) owners and operators of property that will be essential to the deployment of a sufficient level of publicly available charging infrastructure (including privately owned parking lots or structures and commercial entities with public access locations);

(vi) plug-in electric drive vehicle manufacturers or retailers;

(vii) third-party providers of charging infrastructure or services;

(viii) owners of any major fleet that will participate in the program;

(ix) as appropriate, owners and operators of regional electric power distribution and transmission facilities; and

(x) other existing community coalitions recognized by the Department of Energy;

(B) communities that, as determined by the Secretary, have best demonstrated that the public is likely to embrace plug-in electric drive vehicles, giving particular consideration to communities that—

(i) have documented waiting lists to purchase plug-in electric drive vehicles;

(ii) have developed projections of the quantity of plug-in electric drive vehicles supplied to dealers; and

(iii) have assessed the quantity of charging infrastructure installed or for which permits have been issued;

(C) communities that have shown a commitment to serving diverse consumer charging infrastructure needs, including the charging infrastructure needs for single- and multi-family housing and public and privately owned commercial infrastructure; and

(D) communities that have established regulatory and educational efforts to facilitate consumer acceptance of plug-in electric drive vehicles, including by—

(i) adopting (or being in the process of adopting) streamlined permitting and inspections processes for residential charging infrastructure; and

(ii) providing customer informational resources, including providing plug-in electric drive information on community or other websites.

(4) BEST PRACTICES.—The Secretary shall collect and disseminate information to State, local, and tribal governments creating plans to deploy plug-in electric drive vehicles on best practices (including codes and standards) that uses data from—

(A) the program established by section 2116;

(B) the activities carried out by the Task Force; and

(C) existing academic and industry studies of the factors that contribute to the successful deployment of new technologies, particularly studies relating to alternative fueled vehicles.

(5) GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a program to provide grants to State, local, and tribal governments or to partnerships of government and private entities to assist the governments and partnerships—

(i) in preparing a community deployment plan under section 2116; and

(ii) in preparing and implementing programs that support the deployment of plug-in electric drive vehicles.

(B) APPLICATION.—A State, local, or tribal government that seeks to receive a grant under this paragraph shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary may prescribe.

(C) USE OF FUNDS.—A State, local, or tribal government receiving a grant under this paragraph shall use the funds—

(i) to develop a community deployment plan that shall be submitted to the next available competition under section 2116; and

(ii) to carry out activities that encourage the deployment of plug-in electric drive vehicles including—

(I) planning for and installing charging infrastructure, particularly to develop and demonstrate diverse and cost-effective planning, installation, and operations options for deployment of single family and multifamily residential, workplace, and publicly available charging infrastructure;

(II) updating building, zoning, or parking codes and permitting or inspection processes;

(III) workforce training, including the training of permitting officials;

(IV) public education described in the proposed marketing plan;

(V) shifting State, local, or tribal government fleets to plug-in electric drive vehicles, at a rate in excess of the existing alternative fueled fleet vehicles acquisition requirements for Federal fleets under section 303(b)(1)(D) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)(D)); and

(VI) any other activities, as determined to be necessary by the Secretary.

(D) CRITERIA.—The Secretary shall develop and publish criteria for the selection of technical assistance grants, including requirements for the submission of applications under this paragraph.

(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph.

(b) UPDATING MODEL BUILDING CODES, PERMITTING AND INSPECTION PROCESSES, AND ZONING OR PARKING RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the American Society of Heating, Refrigerating and Air-Conditioning Engineers, the International Code Council, and any other organizations that the Secretary determines to be appropriate, shall develop and publish guidance for—

(A) model building codes for the inclusion of separate circuits for charging infrastructure, as appropriate, in new construction and major renovations of private residences, buildings, or other structures that could provide publicly available charging infrastructure;

(B) model construction permitting or inspection processes that allow for the expedited installation of charging infrastructure for purchasers of plug-in electric drive vehicles (including a permitting process that allows a vehicle purchaser to have charging infrastructure installed not later than 1 week after a request); and

(C) model zoning, parking rules, or other local ordinances that—

(i) facilitate the installation of publicly available charging infrastructure, including commercial entities that provide public access to infrastructure; and

(ii) allow for access to publicly available charging infrastructure.

(2) OPTIONAL ADOPTION.—An applicant for selection for technical assistance under this section or as a deployment community under section 2116 shall not be required to use the model building codes, permitting and inspection processes, or zoning, parking rules, or other ordinances included in the report under paragraph (1).

(3) SMART GRID INTEGRATION.—In developing the model codes or ordinances described in paragraph (1), the Secretary shall consider smart grid integration.

SEC. 2114. WORKFORCE TRAINING.

(a) MAINTENANCE AND SUPPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee and the Task Force, shall award grants to institutions of higher education and other qualified training and education institutions for the establishment of programs to provide training and education for vocational workforce development through centers of excellence.

(2) PURPOSE.—Training funded under this subsection shall be intended to ensure that the workforce has the necessary skills needed to work on and maintain plug-in electric drive vehicles and the infrastructure required to support plug-in electric drive vehicles.

(3) SCOPE.—Training funded under this subsection shall include training for—

(A) first responders;

(B) electricians and contractors who will be installing infrastructure;

(C) engineers;

(D) code inspection officials; and

(E) dealers and mechanics.

(b) DESIGN.—The Secretary shall award grants to institutions of higher education and other qualified training and education institutions for the establishment of programs to provide training and education in designing plug-in electric drive vehicles and associated components and infrastructure to ensure that the United States can lead the world in this field.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $150,000,000.

SEC. 2115. FEDERAL FLEETS.

(a) IN GENERAL.—Electricity consumed by Federal agencies to fuel plug-in electric drive vehicles—

(1) is an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13218)); and

(2) shall be accounted for under Federal fleet management reporting requirements, not under Federal building management reporting requirements.

(b) ASSESSMENT AND REPORT.—Not later than 180 days after the date of enactment of this Act and every 3 years thereafter, the Federal Energy Management Program and the General Services Administration, in consultation with the Task Force, shall complete an assessment of Federal Government fleets, including the Postal Service and the

Department of Defense, and submit a report to Congress that describes—

(1) for each Federal agency, which types of vehicles the agency uses that would or would not be suitable for near-term and medium-term conversion to plug-in electric drive vehicles, taking into account the types of vehicles for which plug-in electric drive vehicles could provide comparable functionality and lifecycle costs;

(2) how many plug-in electric drive vehicles could be deployed by the Federal Government in 5 years and in 10 years, assuming that plug-in electric drive vehicles are available and are purchased when new vehicles are needed or existing vehicles are replaced;

(3) the estimated cost to the Federal Government for vehicle purchases under paragraph (2); and

(4) a description of any updates to the assessment based on new market data.

(c) INVENTORY AND DATA COLLECTION.—

(1) IN GENERAL.—In carrying out the assessment and report under subsection (b), the Federal Energy Management Program, in consultation with the General Services Administration, shall—

(A) develop an information request for each agency that operates a fleet of at least 20 motor vehicles; and

(B) establish guidelines for each agency to use in developing a plan to deploy plug-in electric drive vehicles.

(2) AGENCY RESPONSES.—Each agency that operates a fleet of at least 20 motor vehicles shall—

(A) collect information on the vehicle fleet of the agency in response to the information request described in paragraph (1); and

(B) develop a plan to deploy plug-in electric drive vehicles.

(3) ANALYSIS OF RESPONSES.—The Federal Energy Management Program shall—

(A) analyze the information submitted by each agency under paragraph (2);

(B) approve or suggest amendments to the plan of each agency to ensure that the plan is consistent with the goals and requirements of this title; and

(C) submit a plan to Congress and the General Services Administration to be used in developing the pilot program described in subsection (e).

(d) BUDGET REQUEST.—Each agency of the Federal Government shall include plug-in electric drive vehicle purchases identified in the report under subsection (b) in the budget of the agency to be included in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

(e) PILOT PROGRAM TO DEPLOY PLUG-IN ELECTRIC DRIVE VEHICLES IN THE FEDERAL FLEET.—

(1) PROGRAM.—

(A) IN GENERAL.—The Administrator of General Services shall acquire plug-in electric drive vehicles and the requisite charging infrastructure to be deployed in a range of locations in Federal Government fleets, which may include the United States Postal Service and the Department of Defense, during the 5-year period beginning on the date of enactment of this Act.

(B) EXPENDITURES.—To the maximum extent practicable, expenditures under this paragraph should make a contribution to the advancement of manufacturing of electric drive components and vehicles in the United States.

(2) DATA COLLECTION.—The Administrator of General Services shall collect data regarding—

(A) the cost, performance, and use of plug-in electric drive vehicles in the Federal fleet;

(B) the deployment and integration of plug-in electric drive vehicles in the Federal fleet; and

(C) the contribution of plug-in electric drive vehicles in the Federal fleet toward reducing the use of fossil fuels and greenhouse gas emissions.

(3) REPORT.—Not later than 6 years after the date of enactment of this Act, the Administrator of General Services shall submit to the appropriate committees of Congress a report that—

(A) describes the status of plug-in electric drive vehicles in the Federal fleet; and

(B) includes an analysis of the data collected under this subsection.

(4) PUBLIC WEB SITE.—The Federal Energy Management Program shall maintain and regularly update a publicly available Web site that provides information on the status of plug-in electric drive vehicles in the Federal fleet.

(f) ACQUISITION PRIORITY.—Section 507(g) of the Energy Policy Act of 1992 (42 U.S.C. 13257(g)) is amended by adding at the end the following:

''(5) PRIORITY.—The Secretary shall, to the maximum extent practicable, prioritize the acquisition of plug-in electric drive vehicles (as defined in section 131(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011(a)) over nonelectric alternative fueled vehicles.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for use by the Federal Government in paying incremental costs to purchase or lease plug-in electric drive vehicles and the requisite charging infrastructure for Federal fleets $25,000,000.

SEC. 2116. TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT COMMUNITIES PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the national plug-in electric drive deployment program established under section 2111 a targeted plug-in electric drive vehicle deployment communities program (referred to in this section as the ''Program'').

(2) EXISTING ACTIVITIES.—In carrying out the Program, the Secretary shall coordinate and supplement, not supplant, any ongoing plug-in electric drive deployment activities under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011).

(3) PHASE 1.—

(A) IN GENERAL.—The Secretary shall establish a competitive process to select phase 1 deployment communities for the Program.

(B) ELIGIBLE ENTITIES.—In selecting participants for the Program under paragraph (1), the Secretary shall only consider applications submitted by State, tribal, or local government entities (or groups of State, tribal, or local government entities).

(C) SELECTION.—Not later than 1 year after the date of enactment of this Act and not later than 1 year after the date on which any subsequent amounts are appropriated for the Program, the Secretary shall select the phase 1 deployment communities under this paragraph.

(D) TERMINATION.—Phase 1 of the Program shall be carried out for a 3-year period beginning on the date funding under this title is first provided to the deployment community.

(4) PHASE 2.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that analyzes the lessons learned in phase I and, if, based on the phase I analysis, the Secretary determines that a phase II program is warranted, makes recommendations and describes a plan for phase II, including—

(A) recommendations regarding—

(i) options for the number of additional deployment communities that should be selected;

(ii) the manner in which criteria for selection should be updated;

(iii) the manner in which incentive structures for phase 2 deployment should be changed; and

(iv) whether other forms of onboard energy storage for electric drive vehicles, such as fuel cells, should be included in phase 2; and

(B) a request for appropriations to implement phase 2 of the Program.

(b) GOALS.—The goals of the Program are—

(1) to facilitate the rapid deployment of plug-in electric drive vehicles, including—

(A) the deployment of 400,000 plug-in electric drive vehicles in phase 1 in the deployment communities selected under paragraph (2);

(B) the near-term achievement of significant market penetration in deployment communities; and

(C) supporting the achievement of significant market penetration nationally;

(2) to establish models for the rapid deployment of plug-in electric drive vehicles nationally, including for the deployment of single-family and multifamily residential, workplace, and publicly available charging infrastructure;

(3) to increase consumer knowledge and acceptance of, and exposure to, plug-in electric drive vehicles;

(4) to encourage the innovation and investment necessary to achieve mass market deployment of plug-in electric drive vehicles;

(5) to demonstrate the integration of plug-in electric drive vehicles into electricity distribution systems and the larger electric grid while maintaining or improving grid system performance and reliability;

(6) to demonstrate protocols and communication standards that facilitate vehicle integration into the grid and provide seamless charging for consumers traveling through multiple utility distribution systems;

(7) to investigate differences among deployment communities and to develop best practices for implementing vehicle electrification in various communities, including best practices for planning for and facilitating the construction of residential, workplace, and publicly available infrastructure to support plug-in electric drive vehicles;

(8) to collect comprehensive data on the purchase and use of plug-in electric drive vehicles, including charging profile data at unit and aggregate levels, to inform best practices for rapidly deploying plug-in electric drive vehicles in other locations, including for the installation of charging infrastructure;

(9) to reduce and displace petroleum use and reduce greenhouse gas emissions by accelerating the deployment of plug-in electric drive vehicles in the United States; and

(10) to increase domestic manufacturing capacity and commercialization in a manner that will establish the United States as a world leader in plug-in electric drive vehicle technologies.

(c) PHASE 1 DEPLOYMENT COMMUNITY SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that selected deployment communities in phase 1 serve as models of deployment for various communities across the United States.

(2) SELECTION.—In selecting communities under this section, the Secretary—

(A) shall ensure, to the maximum extent practicable, that—

(i) the combination of selected communities is diverse in population density, demographics, urban and suburban composition, typical commuting patterns, climate, and type of utility (including investor-owned, publicly-owned, cooperatively-owned, distribution-only, and vertically integrated utilities);

(ii) the combination of selected communities is diverse in geographic distribution, and at least 1 deployment community is located in each Petroleum Administration for Defense District;

(iii) at least 1 community selected has a population of less than 125,000;

(iv) grants are of a sufficient amount such that each deployment community will achieve significant market penetration; and

(v) the deployment communities are representative of other communities across the United States;

(B) is encouraged to select a combination of deployment communities that includes multiple models or approaches for deploying plug-in electric drive vehicles that the Secretary believes are reasonably likely to be effective, including multiple approaches to the deployment of charging infrastructure;

(C) in addition to the criteria described in subparagraph (A), may give preference to applicants proposing a greater non-Federal cost share; and

(D) when considering deployment community plans, shall take into account previous Department of Energy and other Federal investments to ensure that the maximum domestic benefit from Federal investments is realized.

(3) CRITERIA.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and not later than 90 days after the date on which any subsequent amounts are appropriated for the Program, the Secretary shall publish criteria for the selection of deployment communities that include requirements that applications be submitted by a State, tribal, or local government entity (or groups of State, tribal, or local government entities).

(B) APPLICATION REQUIREMENTS.—The criteria published by the Secretary under subparagraph (A) shall include application requirements that, at a minimum, include—

(i) goals for—

(I) the number of plug-in electric drive vehicles to be deployed in the community;

(II) the expected percentage of light-duty vehicle sales that would be sales of plug-in electric drive vehicles; and

(III) the adoption of plug-in electric drive vehicles (including medium- or heavy-duty vehicles) in private and public fleets during the 3-year duration of the Program;

(ii) data that demonstrate that—

(I) the public is likely to embrace plug-in electric drive vehicles, which may include—

(aa) the quantity of plug-in electric drive vehicles purchased;

(bb) the number of individuals on a waiting list to purchase a plug-in electric drive vehicle;

(cc) projections of the quantity of plug-in electric drive vehicles supplied to dealers; and

(dd) any assessment of the quantity of charging infrastructure installed or for which permits have been issued; and

(II) automobile manufacturers and dealers will be able to provide and service the targeted number of plug-in electric drive vehicles in the community for the duration of the program;

(iii) clearly defined geographic boundaries of the proposed deployment area;

(iv) a community deployment plan for the deployment of plug-in electric drive vehicles, charging infrastructure, and services in the deployment community;

(v) assurances that a majority of the vehicle deployments anticipated in the plan will be personal vehicles authorized to travel on the United States Federal-aid system of highways, and secondarily, private or public sector plug-in electric drive fleet vehicles, but may also include—

(I) medium- and heavy-duty plug-in hybrid vehicles;

(II) low speed plug-in electric drive vehicles that meet Federal Motor Vehicle Safety Standards described in section 571.500 of title 49, Code of Federal Regulations; and

(III) any other plug-in electric drive vehicle authorized to travel on the United States Federal-aid system of highways; and

(vi) any other merit-based criteria, as determined by the Secretary.

(4) COMMUNITY DEPLOYMENT PLANS.—Plans for the deployment of plug-in electric drive vehicles shall include—

(A) a proposed level of cost sharing in accordance with subsection (d)(2)(C);

(B) documentation demonstrating a substantial partnership with relevant stakeholders, including—

(i) a list of stakeholders that includes—

(I) elected and appointed officials from each of the participating State, local, and tribal governments;

(II) all relevant generators and distributors of electricity;

(III) State utility regulatory authorities;

(IV) departments of public works and transportation;

(V) owners and operators of property that will be essential to the deployment of a sufficient level of publicly available charging infrastructure (including privately owned parking lots or structures and commercial entities with public access locations);

(VI) plug-in electric drive vehicle manufacturers or retailers;

(VII) third-party providers of residential, workplace, private, and publicly available charging infrastructure or services;

(VIII) owners of any major fleet that will participate in the program;

(IX) as appropriate, owners and operators of regional electric power distribution and transmission facilities; and

(X) as appropriate, other existing community coalitions recognized by the Department of Energy;

(ii) evidence of the commitment of the stakeholders to participate in the partnership;

(iii) a clear description of the role and responsibilities of each stakeholder; and

(iv) a plan for continuing the engagement and participation of the stakeholders, as appropriate, throughout the implementation of the deployment plan;

(C) a description of the number of plug-in electric drive vehicles anticipated to be plug-in electric drive personal vehicles and the number of plug-in electric drive vehicles anticipated to be privately owned fleet or public fleet vehicles;

(D) a plan for deploying residential, workplace, private, and publicly available charging infrastructure, including—

(i) an assessment of the number of consumers who will have access to private residential charging infrastructure in single-family or multifamily residences;

(ii) options for accommodating plug-in electric drive vehicle owners who are not able to charge vehicles at their place of residence;

(iii) an assessment of the number of consumers who will have access to workplace charging infrastructure;

(iv) a plan for ensuring that the charging infrastructure or plug-in electric drive vehicle be able to send and receive the information needed to interact with the grid and be compatible with smart grid technologies to the extent feasible;

(v) an estimate of the number and dispersion of publicly and privately owned charging stations that will be publicly or commercially available;

(vi) an estimate of the quantity of charging infrastructure that will be privately funded or located on private property; and

(vii) a description of equipment to be deployed, including assurances that, to the maximum extent practicable, equipment to be deployed will meet open, nonproprietary standards for connecting to plug-in electric drive vehicles that are either—

(I) commonly accepted by industry at the time the equipment is being acquired; or

(II) meet the standards developed by the Director of the National Institute of Standards and Technology under section 1305 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17385);

(E) a plan for effective marketing of and consumer education relating to plug-in electric drive vehicles, charging services, and infrastructure;

(F) descriptions of updated building codes (or a plan to update building codes before or during the grant period) to include charging infrastructure or dedicated circuits for charging infrastructure, as appropriate, in new construction and major renovations;

(G) descriptions of updated construction permitting or inspection processes (or a plan to update construction permitting or inspection processes) to allow for expedited installation of charging infrastructure for purchasers of plug-in electric drive vehicles, including a permitting process that allows a vehicle purchaser to have charging infrastructure installed in a timely manner;

(H) descriptions of updated zoning, parking rules, or other local ordinances as are necessary to facilitate the installation of publicly available charging infrastructure and to allow for access to publicly available charging infrastructure, as appropriate;

(I) a plan to ensure that each resident in a deployment community who purchases and registers a new plug-in electric drive vehicle throughout the duration of the deployment community receives, in addition to any Federal incentives, consumer benefits that may include—

(i) a rebate of part of the purchase price of the vehicle;

(ii) reductions in sales taxes or registration fees;

(iii) rebates or reductions in the costs of permitting, purchasing, or installing home plug-in electric drive vehicle charging infrastructure; and

(iv) rebates or reductions in State or local toll road access charges;

(J) additional consumer benefits, such as preferred parking spaces or single-rider access to high-occupancy vehicle lanes for plug-in electric drive vehicles;

(K) a proposed plan for making necessary utility and grid upgrades, including economically sound and cybersecure information technology upgrades and employee training, and a plan for recovering the cost of the upgrades;

(L) a description of utility, grid operator, or third-party charging service provider, policies and plans for accommodating the deployment of plug-in electric drive vehicles, including—

(i) rate structures or provisions and billing protocols for the charging of plug-in electric drive vehicles;

(ii) analysis of potential impacts to the grid;

(iii) plans for using information technology or third-party aggregators—

(I) to minimize the effects of charging on peak loads;

(II) to enhance reliability; and

(III) to provide other grid benefits;

(iv) plans for working with smart grid technologies or third-party aggregators for the purposes of smart charging and for allowing 2-way communication;

(M) a deployment timeline;

(N) a plan for monitoring and evaluating the implementation of the plan, including metrics for assessing the success of the deployment and an approach to updating the plan, as appropriate; and

(O) a description of the manner in which any grant funds applied for under subsection (d) will be used and the proposed local cost share for the funds.

(d) PHASE 1 APPLICATIONS AND GRANTS.—

(1) APPLICATIONS.—

(A) IN GENERAL.—Not later than 150 days after the date of publication by the Secretary of selection criteria described in subsection (c)(3), any State, tribal, or local government, or group of State, tribal, or local governments may apply to the Secretary to become a deployment community.

(B) JOINT SPONSORSHIP.—

(i) IN GENERAL.—An application submitted under subparagraph (A) may be jointly sponsored by electric utilities, automobile manufacturers, technology providers, carsharing companies or organizations, third-party plug-in electric drive vehicle service providers, or other appropriated entities.

(ii) DISBURSEMENT OF GRANTS.—A grant provided under this subsection shall only be disbursed to a State, tribal, or local government, or group of State, tribal, or local governments, regardless of whether the application is jointly sponsored under clause (i).

(2) GRANTS.—

(A) IN GENERAL.—In each application, the applicant may request up to $100,000,000 in financial assistance from the Secretary to fund projects in the deployment community.

(B) USE OF FUNDS.—Funds provided through a grant under this paragraph may be used to help implement the plan for the deployment of plug-in electric drive vehicles included in the application, including—

(i) planning for and installing charging infrastructure, including offering additional incentives as described in subsection (c)(4)(I);

(ii) updating building codes, zoning or parking rules, or permitting or inspection processes as described in subparagraphs (F), (G), and (H) of subsection (c)(4);

(iii) reducing the cost and increasing the consumer adoption of plug-in electric drive vehicles through incentives as described in subsection (c)(4)(I);

(iv) workforce training, including training of permitting officials;

(v) public education and marketing described in the proposed marketing plan;

(vi) shifting State, tribal, or local government fleets to plug-in electric drive vehicles, at a rate in excess of the existing alternative fueled fleet vehicle acquisition requirements for Federal fleets under section 303(b)(1)(D) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)(D)); and

(vii) necessary utility and grid upgrades as described in subsection (c)(4)(K).

(C) COST-SHARING.—

(i) IN GENERAL.—A grant provided under this paragraph shall be subject to a minimum non-Federal cost-sharing requirement of 20 percent.

(ii) NON-FEDERAL SOURCES.—The Secretary shall—

(I) determine the appropriate cost share for each selected applicant; and

(II) require that the Federal contribution to total expenditures on activities described in clauses (ii), (iv), (v), and (vi) of subparagraph (B) not exceed 30 percent.

(iii) REDUCTION.—The Secretary may reduce or eliminate the cost-sharing requirement described in clause (i), as the Secretary determines to be necessary.

(iv) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal share under this section, the Secretary—

(I) may include allowable costs in accordance with the applicable cost principles, including—

(aa) cash;

(bb) personnel costs;

(cc) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(dd) indirect costs or facilities and administrative costs; or

(ee) any funds received under the power program of the Tennessee Valley Authority or any Power Marketing Administration (except to the extent that such funds are made available under an annual appropriation Act);

(II) shall include contributions made by State, tribal, or local government entities and private entities; and

(III) shall not include—

(aa) revenues or royalties from the prospective operation of an activity beyond the time considered in the grant;

(bb) proceeds from the prospective sale of an asset of an activity; or

(cc) other appropriated Federal funds.

(v) REPAYMENT OF FEDERAL SHARE.—The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of providing a grant.

(vi) TITLE TO PROPERTY.—The Secretary may vest title or other property interests acquired under projects funded under this title in any entity, including the United States.

(3) SELECTION.—Not later than 120 days after an application deadline has been established under paragraph (1), the Secretary shall announce the names of the deployment communities selected under this subsection.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall—

(A) determine what data will be required to be collected by participants in deployment communities and submitted to the Department to allow for analysis of the deployment communities;

(B) provide for the protection of consumer privacy, as appropriate; and

(C) develop metrics to evaluate the performance of the deployment communities.

(2) PROVISION OF DATA.—As a condition of participation in the Program, a deployment community shall provide any data identified by the Secretary under paragraph (1).

(3) REPORTS.—Not later than 3 years after the date of enactment of this Act and again after the completion of the Program, the Secretary shall submit to Congress a report that contains—

(A) a description of the status of—

(i) the deployment communities and the implementation of the deployment plan of each deployment community;

(ii) the rate of vehicle deployment and market penetration of plug-in electric drive vehicles; and

(iii) the deployment of residential and publicly available infrastructure;

(B) a description of the challenges experienced and lessons learned from the program to date, including the activities described in subparagraph (A); and

(C) an analysis of the data collected under this subsection.

(f) PROPRIETARY INFORMATION.—The Secretary shall, as appropriate, provide for the protection of proprietary information and intellectual property rights.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000,000.

(h) CONFORMING AMENDMENT.—Section 166(b)(5) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking ''Before September 30, 2009, the State'' and inserting ''The State''; and

(2) in subparagraph (B), by striking ''Before September 30, 2009, the State'' and inserting ''The State''.

SEC. 2117. FUNDING.

(a) TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT COMMUNITIES PROGRAM.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out section 2116 $400,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out section 2116 the funds transferred under paragraph (1), without further appropriation.

(b) OTHER PROVISIONS.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subtitle (other than section 2116) $100,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subtitle (other than section 2116) the funds transferred under paragraph (1), without further appropriation.

Subtitle B—Research and Development

SEC. 2121. RESEARCH AND DEVELOPMENT PROGRAM.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall establish a program to fund research and development in advanced batteries, plug-in electric drive vehicle components, plug-in electric drive infrastructure, and other technologies supporting the development, manufacture, and deployment of plug-in electric drive vehicles and charging infrastructure.

(2) USE OF FUNDS.—The program may include funding for—

(A) the development of low-cost, smart-charging and vehicle-to-grid connectivity technology;

(B) the benchmarking and assessment of open software systems using nationally established evaluation criteria; and

(C) new technologies in electricity storage or electric drive components for vehicles.

(3) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the status of the program described in paragraph (1).

(b) SECONDARY USE APPLICATIONS PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall carry out a research, development, and demonstration program that builds upon any work carried out under section 915 of the Energy Policy Act of 2005 (42 U.S.C. 16195) and—

(A) identifies possible uses of a vehicle battery after the useful life of the battery in a vehicle has been exhausted;

(B) assesses the potential for markets for uses described in subparagraph (A) to develop, as well as any barriers to the development of the markets;

(C) identifies the infrastructure, technology, and equipment needed to manage the charging activity of the batteries used in stationary sources; and

(D) identifies the potential uses of a vehicle battery—

(i) with the most promise for market development; and

(ii) for which market development would be aided by a demonstration project.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress an initial report on the findings of the program described in paragraph (1), including recommendations for stationary energy storage and other potential applications for batteries used in plug-in electric drive vehicles.

(c) SECONDARY USE DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Based on the results of the program described in subsection (b), the Secretary, in consultation with the Committee, shall develop guidelines for projects that demonstrate the secondary uses of vehicle batteries.

(2) PUBLICATION OF GUIDELINES.—Not later than 30 months after the date of enactment of this Act, the Secretary shall—

(A) publish the guidelines described in paragraph (1); and

(B) solicit applications for funding for demonstration projects.

(3) GRANT PROGRAM.—Not later than 38 months after the date of enactment of this Act, the Secretary shall select proposals for grant funding under this section, based on an assessment of which proposals are mostly likely to contribute to the development of a secondary market for batteries.

(d) MATERIALS RECYCLING STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall carry out a study on the recycling of materials from plug-in electric drive vehicles and the batteries used in plug-in electric drive vehicles.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the findings of the study described in paragraph (1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,535,000,000, including—

(1) $1,500,000,000 for use in conducting the program described in subsection (a) for fiscal years 2011 through 2020;

(2) $5,000,000 for use in conducting the program described in subsection (b) for fiscal years 2011 through 2016;

(3) $25,000,000 for use in providing grants described in subsection (c) for fiscal years 2011 through 2020; and

(4) $5,000,000 for use in conducting the study described in subsection (d) for fiscal years 2011 through 2013.

SEC. 2122. ADVANCED BATTERIES FOR TOMORROW PRIZE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, as part of the program described in section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396), the Secretary shall establish the Advanced Batteries for Tomorrow Prize to competitively award cash prizes in accordance with this section to advance the research, development, demonstration, and commercial application of a 500-mile vehicle battery.

(b) BATTERY SPECIFICATIONS.—

(1) IN GENERAL.—To be eligible for the Prize, a battery submitted by an entrant shall be—

(A) able to power a plug-in electric drive vehicle authorized to travel on the United States Federal-aid system of highways for at least 500 miles before recharging;

(B) of a size that would not be cost-prohibitive or create space constraints, if mass-produced; and

(C) cost-effective (measured in cost per kilowatt hour), if mass-produced.

(2) ADDITIONAL REQUIREMENTS.—The Secretary, in consultation with the Committee, shall establish any additional battery specifications that the Secretary and the Committee determine to be necessary.

(c) PRIVATE FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(2) RESTRICTION ON PARTICIPATION.—An entity providing private funds for the Prize may not participate in the competition for the Prize.

(d) TECHNICAL REVIEW.—The Secretary, in consultation with the Committee, shall establish a technical review committee composed of non-Federal officers to review data submitted by Prize entrants under this section and determine whether the data meets the prize specifications described in subsection (b).

(e) THIRD PARTY ADMINISTRATION.—The Secretary may select, on a competitive basis, a third party to administer awards provided under this section.

(f) ELIGIBILITY.—To be eligible for an award under this section—

(1) in the case of a private entity, the entity shall be incorporated in and maintain a primary place of business in the United States; and

(2) in the case of an individual (whether participating as a single individual or in a group), the individual shall be a citizen or lawful permanent resident of the United States.

(g) AWARD AMOUNTS.—

(1) IN GENERAL.—Subject to the availability of funds to carry out this section, the amount of the Prize shall be $10,000,000.

(2) BREAKTHROUGH ACHIEVEMENT AWARDS.—In addition to the award described in paragraph (1), the Secretary, in consultation with the technical review committee established under subsection (d), may award cash prizes, in amounts determined by the Secretary, in recognition of breakthrough achievements in research, development, demonstration, and commercial application of—

(A) activities described in subsection (b); or

(B) advances in battery durability, energy density, and power density.

(h) 500-MILE BATTERY AWARD FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''500-mile Battery Fund'' (referred to in this section as the ''Fund''), to be administered by the Secretary, to be available without fiscal year limitation and subject to appropriation, to award amounts under this section.

(2) TRANSFERS TO FUND.—The Fund shall consist of—

(A) such amounts as are appropriated to the Fund under subsection (i); and

(B) such amounts as are described in subsection (c) and that are provided for the Fund.

(3) PROHIBITION.—Amounts in the Fund may not be made available for any purpose other than a purposes described in subsection (a).

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2012, the Secretary shall submit a report on the operation of the Fund during the fiscal year to—

(i) the Committees on Appropriations of the House of Representatives and of the Senate;

(ii) the Committee on Energy and Natural Resources of the Senate; and

(iii) the Committee on Energy and Commerce of the House of Representatives.

(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

(i) A statement of the amounts deposited into the Fund.

(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.

(5) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended—

(A) by redesignating paragraphs (35) and (36) as paragraphs (36) and (37), respectively;

(B) by redesignating the second paragraph (33) (relating to obligational authority and outlays requested for homeland security) as paragraph (35); and

(C) by adding at the end the following:

''(38) a separate statement for the 500-mile Battery Fund established under section 8(h) of the 'Promoting Electric Vehicles Act of 2010', which shall include the estimated amount of deposits into the Fund, obligations, and outlays from the Fund.''.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) $10,000,000 to carry out subsection (g)(1); and

(2) $1,000,000 to carry out subsection (g)(2).

SEC. 2123. STUDY ON THE SUPPLY OF RAW MATERIALS.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary and the Task Force, shall conduct a study that—

(1) identifies the raw materials needed for the manufacture of plug-in electric drive vehicles, batteries, and other components for plug-in electric drive vehicles, and for the infrastructure needed to support plug-in electric drive vehicles;

(2) describes the primary or original sources and known reserves and resources of those raw materials;

(3) assesses, in consultation with the National Academy of Sciences, the degree of risk to the manufacture, maintenance, deployment, and use of plug-in electric drive vehicles associated with the supply of those raw materials; and

(4) identifies pathways to securing reliable and resilient supplies of those raw materials.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that describes the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 2124. STUDY ON THE COLLECTION AND PRESERVATION OF DATA COLLECTED FROM PLUG-IN ELECTRIC DRIVE VEHICLES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Committee, shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study that—

(1) identifies—

(A) the data that may be collected from plug-in electric drive vehicles, including data on the location, charging patterns, and usage of plug-in electric drive vehicles;

(B) the scientific, economic, commercial, security, and historic potential of the data described in subparagraph (A); and

(C) any laws or regulations that relate to the data described in subparagraph (A); and

(2) analyzes and provides recommendations on matters that include procedures, technologies, and rules relating to the collection, storage, and preservation of the data described in paragraph (1)(A).

(b) REPORT.—Not later than 15 months after the date of an agreement between the Secretary and the Academy under subsection (a), the National Academy of Sciences shall submit to the appropriate committees of Congress a report that describes the results of the study under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

Subtitle C—Miscellaneous

SEC. 2131. UTILITY PLANNING FOR PLUG-IN ELECTRIC DRIVE VEHICLES.

(a) IN GENERAL.—The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended—

(1) in section 111(d) (16 U.S.C. 2621(d)), by adding at the end the following:

''(20) PLUG-IN ELECTRIC DRIVE VEHICLE PLANNING.—

''(A) UTILITY PLAN FOR PLUG-IN ELECTRIC DRIVE VEHICLES.—

''(i) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, each electric utility shall develop a plan to support the use of plug-in electric drive vehicles, including medium- and heavy-duty hybrid electric vehicles in the service area of the electric utility.

''(ii) REQUIREMENTS.—A plan under clause (i) shall investigate—

''(I) various levels of potential penetration of plug-in electric drive vehicles in the utility service area;

''(II) the potential impacts that the various levels of penetration and charging scenarios (including charging rates and daily hours of charging) would have on generation, distribution infrastructure, and the operation of the transmission grid; and

''(III) the role of third parties in providing reliable and economical charging services.

''(iii) WAIVER.—

''(I) IN GENERAL.—An electric utility that determines that the electric utility will not be impacted by plug-in electric drive vehicles during the 5-year period beginning on the date of enactment of this paragraph may petition the Secretary to waive clause (i) for 5 years.

''(II) APPROVAL.—Approval of a waiver under subclause (I) shall be in the sole discretion of the Secretary.

''(iv) UPDATES.—

''(I) IN GENERAL.—Each electric utility shall update the plan of the electric utility every 5 years.

''(II) RESUBMISSION OF WAIVER.—An electric utility that received a waiver under clause (iii) and wants the waiver to continue after the expiration of the waiver shall be required to resubmit the waiver.

''(v) EXEMPTION.—If the Secretary determines that a plan required by a State regulatory authority meets the requirements of this paragraph, the Secretary may accept that plan and exempt the electric utility submitting the plan from the requirements of clause (i).

''(B) SUPPORT REQUIREMENTS.—Each State regulatory authority (in the case of each electric utility for which the authority has ratemaking authority) and each municipal and cooperative utility shall—

''(i) participate in any local plan for the deployment of recharging infrastructure in communities located in the footprint of the authority or utility;

''(ii) require that charging infrastructure deployed is interoperable with products of all auto manufacturers to the maximum extent practicable; and

''(iii) consider adopting minimum requirements for deployment of electrical charging infrastructure and other appropriate requirements necessary to support the use of plug-in electric drive vehicles.

''(C) COST RECOVERY.—Each State regulatory authority (in the case of each electric utility for which the authority has ratemaking authority) and each municipal and cooperative utility may consider whether, and to what extent, to allow cost recovery for plans and implementation of plans.

''(D) DETERMINATION.—Not later than 3 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), and each municipal and cooperative electric utility, shall complete the consideration, and shall make the determination, referred to in subsection (a) with respect to the standard established by this paragraph.'';

(2) in section 112(c) (16 U.S.C. 2622(c))—

(A) in the first sentence, by striking ''Each State'' and inserting the following:

''(1) IN GENERAL.—Each State'';

(B) in the second sentence, by striking ''In the case'' and inserting the following:

''(2) SPECIFIC STANDARDS.—

''(A) NET METERING AND FOSSIL FUEL GENERATION EFFICIENCY.—In the case'';

(C) in the third sentence, by striking ''In the case'' and inserting the following:

''(B) TIME-BASED METERING AND COMMUNICATIONS.—In the case'';

(D) in the fourth sentence—

(i) by striking ''In the case'' and inserting the following:

''(C) INTERCONNECTION.—In the case''; and

(ii) by striking ''paragraph (15)'' and inserting ''paragraph (15) of section 111(d)'';

(E) in the fifth sentence, by striking ''In the case'' and inserting the following:

''(D) INTEGRATED RESOURCE PLANNING, RATE DESIGN MODIFICATIONS, SMART GRID INVESTMENTS, SMART GRID INFORMATION.—In the case''; and

(F) by adding at the end the following:

''(E) PLUG-IN ELECTRIC DRIVE VEHICLE PLANNING.—In the case of the standards established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph.''; and

(3) in section 112(d) (16 U.S.C. 2622(d)), in the matter preceding paragraph (1), by striking ''(19)'' and inserting ''(20)''.

(b) REPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Technical Advisory Committee, shall convene a group of utility stakeholders, charging infrastructure providers, third party aggregators, and others, as appropriate, to discuss and determine the potential models for the technically and logistically challenging issues involved in using electricity as a fuel for vehicles, including—

(A) accommodation for billing for charging a plug-in electric drive vehicle, both at home and at publicly available charging infrastructure;

(B) plans for anticipating vehicle to grid applications that will allow batteries in cars as well as banks of batteries to be used for grid storage, ancillary services provision, and backup power;

(C) integration of plug-in electric drive vehicles with smart grid, including protocols and standards, necessary equipment, and information technology systems; and

(D) any other barriers to installing sufficient and appropriate charging infrastructure.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report that includes—

(A) the issues and model solutions described in paragraph (1); and

(B) any other issues that the Task Force and Secretary determine to be appropriate.

SEC. 2132. LOAN GUARANTEES.

(a) LOAN GUARANTEES FOR ADVANCED BATTERY PURCHASES FOR USE IN STATIONARY APPLICATIONS.—Subtitle B of title I of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011 et seq.) is amended by adding at the end the following:

''SEC. 137. LOAN GUARANTEES FOR ADVANCED BATTERY PURCHASES.

''(a) DEFINITIONS.—In this section:

''(1) QUALIFIED AUTOMOTIVE BATTERY.—The term 'qualified automotive battery' means a battery that—

''(A) has at least 4 kilowatt hours of battery capacity; and

''(B) is designed for use in qualified plug-in electric drive motor vehicles but is purchased for nonautomotive applications.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) an original equipment manufacturer;

''(B) an electric utility;

''(C) any provider of range extension infrastructure; or

''(D) any other qualified entity, as determined by the Secretary.

''(b) LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary shall guarantee loans made to eligible entities for the aggregate purchase of not less than 200 qualified automotive batteries in a calendar year that have a total minimum power rating of 1 megawatt and use advanced battery technology.

''(2) RESTRICTION.—As a condition of receiving a loan guarantee under this section, an entity purchasing qualified automotive batteries with loan funds guaranteed under this section shall comply with the provisions of the Buy American Act (41 U.S.C. 10a et seq.).

''(c) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000.''.

(b) LOAN GUARANTEES FOR CHARGING INFRASTRUCTURE.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Charging infrastructure and networks of charging infrastructure for plug-in drive electric vehicles, if the charging infrastructure will be operational prior to December 31, 2016.''.

SEC. 2133. PROHIBITION ON DISPOSING OF ADVANCED BATTERIES IN LANDFILLS.

(a) DEFINITION OF ADVANCED BATTERY.—

(1) IN GENERAL.—In this section, the term ''advanced battery'' means a battery that is a secondary (rechargeable) electrochemical energy storage device that has enhanced energy capacity.

(2) EXCLUSIONS.—The term ''advanced battery'' does not include—

(A) a primary (nonrechargeable) battery; or

(B) a lead-acid battery that is used to start or serve as the principal electrical power source for a plug-in electric drive vehicle.

(b) REQUIREMENT.—An advanced battery from a plug-in electric drive vehicle shall be disposed of in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the ''Resource Conservation and Recovery Act of 1976'').

SEC. 2134. PLUG-IN ELECTRIC DRIVE VEHICLE TECHNICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—There is established the Plug-in Electric Drive Vehicle Technical Advisory Committee to advise the Secretary on the programs and activities under this title.

(b) MISSION.—The mission of the Committee shall be to advise the Secretary on technical matters, including—

(1) the priorities for research and development;

(2) means of accelerating the deployment of safe, economical, and efficient plug-in electric drive vehicles for mass market adoption;

(3) the development and deployment of charging infrastructure;

(4) the development of uniform codes, standards, and safety protocols for plug-in electric drive vehicles and charging infrastructure; and

(5) reporting on the competitiveness of the United States in plug-in electric drive vehicle and infrastructure research, manufacturing, and deployment.

(c) MEMBERSHIP.—

(1) MEMBERS.—

(A) IN GENERAL.—The Committee shall consist of not less than 12, but not more than 25, members.

(B) REPRESENTATION.—The Secretary shall appoint the members to Committee from among representatives of—

(i) domestic industry;

(ii) institutions of higher education;

(iii) professional societies;

(iv) Federal, State, and local governmental agencies (including the National Laboratories); and

(v) financial, transportation, labor, environmental, electric utility, or other appropriate organizations or individuals with direct experience in deploying and marketing plug-in electric drive vehicles, as the Secretary determines to be necessary.

(2) TERMS.—

(A) IN GENERAL.—The term of a Committee member shall not be longer than 3 years.

(B) STAGGERED TERMS.—The Secretary may appoint members to the Committee for differing term lengths to ensure continuity in the functioning of the Committee.

(C) REAPPOINTMENTS.—A member of the Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Committee shall have a chairperson, who shall be elected by and from the members.

(d) REVIEW.—The Committee shall review and make recommendations to the Secretary on the implementation of programs and activities under this title.

(e) RESPONSE.—

(1) IN GENERAL.—The Secretary shall consider and may adopt any recommendation of the Committee under subsection (c).

(2) BIENNIAL REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report describing any new recommendations of the Committee.

(B) CONTENTS.—The report shall include—

(i) a description of the manner in which the Secretary has implemented or plans to implement the recommendations of the Committee; or

(ii) an explanation of the reason that a recommendation of the Committee has not been implemented.

(C) TIMING.—The report described in this paragraph shall be submitted by the Secretary at the same time the President submits the budget proposal for the Department of Energy to Congress.

(f) COORDINATION.—The Committee shall—

(1) hold joint annual meetings with the Hydrogen and Fuel Cell Technical Advisory Committee established by section 807 of the Energy Policy Act of 2005 (42 U.S.C. 16156) to help coordinate the work and recommendations of the Committees; and

(2) coordinate efforts, to the maximum extent practicable, with all existing independent, departmental, and other advisory Committees, as determined to be appropriate by the Secretary.

(g) SUPPORT.—The Secretary shall provide to the Committee the resources necessary to carry out this section, as determined to be necessary by the Secretary.

SEC. 2135. PLUG-IN ELECTRIC DRIVE VEHICLE INTERAGENCY TASK FORCE.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the President shall establish the Plug-in Electric Drive Vehicle Interagency Task Force, to be chaired by the Secretary and which shall consist of at least 1 representative from each of—

(1) the Office of Science and Technology Policy;

(2) the Council on Environmental Quality;

(3) the Department of Energy;

(4) the Department of Transportation;

(5) the Department of Defense;

(6) the Department of Commerce (including the National Institute of Standards and Technology);

(7) the Environmental Protection Agency;

(8) the General Services Administration; and

(9) any other Federal agencies that the President determines to be appropriate.

(b) MISSION.—The mission of the Task Force shall be to ensure awareness, coordination, and integration of the activities of the Federal Government relating to plug-in electric drive vehicles, including—

(1) plug-in electric drive vehicle research and development (including necessary components);

(2) the development of widely accepted smart-grid standards and protocols for charging infrastructure;

(3) the relationship of plug-in electric drive vehicle charging practices to electric utility regulation;

(4) the relationship of plug-in electric drive vehicle deployment to system reliability and security;

(5) the general deployment of plug-in electric drive vehicles in the Federal, State, and local governments and for private use;

(6) the development of uniform codes, standards, and safety protocols for plug-in electric drive vehicles and charging infrastructure; and

(7) the alignment of international plug-in electric drive vehicle standards.

(c) ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section, the Task Force may—

(A) organize workshops and conferences;

(B) issue publications; and

(C) create databases.

(2) MANDATORY ACTIVITIES.—In carrying out this section, the Task Force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and the Federal Government;

(B) integrate and disseminate technical and other information made available as a result of the programs and activities under this title;

(C) support education about plug-in electric drive vehicles;

(D) monitor, analyze, and report on the effects of plug-in electric drive vehicle deployment on the environment and public health, including air emissions from vehicles and electricity generating units; and

(E) review and report on—

(i) opportunities to use Federal programs (including laws, regulations, and guidelines) to promote the deployment of plug-in electric drive vehicles; and

(ii) any barriers to the deployment of plug-in electric drive vehicles, including barriers that are attributable to Federal programs (including laws, regulations, and guidelines).

(d) AGENCY COOPERATION.—A Federal agency—

(1) shall cooperate with the Task Force; and

(2) provide, on request of the Task Force, appropriate assistance in carrying out this section, in accordance with applicable Federal laws (including regulations).

DIVISION C—CLEAN ENERGY JOBS AND CONSUMER SAVINGS

TITLE XXX—HOME STAR RETROFIT REBATE PROGRAM

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Home Star Retrofit Act of 2010''.

SEC. 3002. DEFINITIONS.

In this title:

(1) ACCREDITED CONTRACTOR.—The term ''accredited contractor'' means a residential energy efficiency contractor that meets the minimum applicable requirements established under subsections (a) and (b) of section 3004.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(3) BPI.—The term ''BPI'' means the Building Performance Institute.

(4) CERTIFIED WORKFORCE.—The term ''certified workforce'' means a residential efficiency construction workforce in which all persons performing installation work in the areas of building envelope retrofits, duct sealing, or any other additional skill category designated by the Secretary of Labor, in consultation with stakeholders and the Secretary of Energy, are certified through an existing certification that covers the appropriate job skills under—

(A) an applicable third party skills standard established—

(i) by the BPI;

(ii) by the North American Technician Excellence;

(iii) by the Laborers' International Union of North America;

(B) an applicable third party skills standard established in the State in which the work is to be performed, pursuant to a program operated by the Home Builders Institute in connection with Ferris State University, to be effective beginning on the date that is 30 days after the date notice is provided by those organizations to the Secretary that the program has been established in the State unless the Secretary determines, not later than 30 days after the date of the notice, that the standard or certification does not equal in quality the standards and certifications described in subparagraph (A); or

(C) other standards that the Secretary shall approve not later than 30 days after the date of submission, in consultation with the Secretary of Labor and the Administrator.

(5) CONDITIONED SPACE.—The term ''conditioned space'' means the area of a home that is—

(A) intended for habitation; and

(B) intentionally heated or cooled.

(6) CONTRACTOR.—The term ''contractor'' means a residential efficiency contracting business entity.

(7) DOE.—The term ''DOE'' means the Department of Energy.

(8) ELECTRIC UTILITY.—The term ''electric utility'' means any person or State agency that delivers or sells electric energy at retail, including nonregulated utilities and utilities that are subject to State regulation and Federal power marketing administrations.

(9) EPA.—The term ''EPA'' means the Environmental Protection Agency.

(10) FEDERAL REBATE PROCESSING SYSTEM.—The term ''Federal Rebate Processing System'' means the Federal Rebate Processing System established under section 3003(b).

(11) GOLD STAR HOME RETROFIT PROGRAM.—The term ''Gold Star Home Retrofit Program'' means the Gold Star Home Retrofit Program established under section 3008.

(12) HOME.—The term ''home'' means a principal residential dwelling unit in a building with no more than 4 dwelling units that—

(A) is located in the United States; and

(B) was constructed before the date of enactment of this Act.

(13) HOMEOWNER.—The term ''homeowner'' means the resident or non-resident owner of record of a home.

(14) HOME STAR LOAN PROGRAM.—The term ''Home Star loan program'' means the Home Star efficiency loan program established under section 3015(a).

(15) HOME STAR RETROFIT REBATE PROGRAM.—The term ''Home Star Retrofit Rebate Program'' means the Home Star Retrofit Rebate Program established under section 3003(a).

(16) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(17) NATURAL GAS UTILITY.—The term ''natural gas utility'' means any person or State agency that transports, distributes, or sells natural gas at retail, including nonregulated utilities and utilities that are subject to State regulation.

(18) QUALIFIED CONTRACTOR.—The term ''qualified contractor'' means a contractor that meets minimum applicable requirements established under section 3004(a).

(19) QUALITY ASSURANCE FRAMEWORK.—The term ''quality assurance framework'' means a policy adopted by a State to develop high standards for ensuring quality in ongoing efficiency retrofit activities in which the State has a role, including operation of the quality assurance program and creating significant employment opportunities, in particular for targeted workers.

(20) QUALITY ASSURANCE PROGRAM.—

(A) IN GENERAL.—The term ''quality assurance program'' means a program established under this title or recognized by the Secretary under this title, to oversee the delivery of home efficiency retrofit programs to ensure that work is performed in accordance with standards and criteria established under this title.

(B) INCLUSIONS.—For purposes of subparagraph (A), delivery of retrofit programs includes delivery of quality assurance reviews of rebate applications and field inspections for a portion of customers receiving rebates and conducted by a quality assurance provider, with the consent of participating consumers and without delaying rebate payments to participating contractors.

(21) QUALITY ASSURANCE PROVIDER.—The term ''quality assurance provider'' means any entity that meets the minimum applicable requirements established under section 3006.

(22) REBATE AGGREGATOR.—The term ''rebate aggregator'' means an entity that meets the requirements of section 3005.

(23) RESNET.—The term ''RESNET'' means the Residential Energy Services Network, which is a nonprofit certification and standard setting organization for home energy raters that evaluate the energy performance of a home.

(24) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(25) SILVER STAR HOME RETROFIT PROGRAM.—The term ''Silver Star Home Retrofit Program'' means the Silver Star Home Retrofit Program established under section 3007.

(26) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

(G) the United States Virgin Islands; and

(H) any other territory or possession of the United States.

(27) TARGETED WORKER.—The term ''targeted worker'' means—

(A) an individual who (as determined by the Secretary of Labor, in consultation with the Secretary of Energy)—

(i) is old enough to be employed under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and State law;

(ii) resides in an area with high or chronic unemployment and low median household incomes; and

(iii) is unemployed or underemployed; or

(B) a veteran of Operation Iraqi Freedom or Operation Enduring Freedom.

(28) VENDOR.—The term ''vendor'' means any retailer that sells directly to homeowners and contractors the materials used for the savings measures under section 3007.

(29) WATERSENSE PRODUCT OR SERVICE.—The term ''WaterSense product or service'' means a water-efficient product or service that meets specifications established by the Administrator under the WaterSense Program of the Environmental Protection Agency.

SEC. 3003. HOME STAR RETROFIT REBATE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish the Home Star Retrofit Rebate Program.

(b) FEDERAL REBATE PROCESSING SYSTEM.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury and the Administrator, shall—

(i) establish a Federal Rebate Processing System which shall serve as a database and information technology system that will allow rebate aggregators to submit claims for reimbursement using standard data protocols;

(ii) establish a national retrofit website that provides information on the Home Star Retrofit Rebate Program, including—

(I) how to determine whether particular efficiency measures are eligible for rebates; and

(II) how to participate in the program;

(iii) make available, on a designated website, model forms for compliance with all applicable requirements of this title, to be submitted by—

(I) each qualified contractor on completion of an eligible home retrofit;

(II) each quality assurance provider on completion of field verification; and

(III) each purchaser of a WaterSense product or service; and

(iv) subject to section 3016, provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.

(B) DISTRIBUTION OF FUNDS.—Not later than 10 days after the date of receipt of bundled rebate applications from a rebate aggregator, the Secretary shall distribute funds to the rebate aggregator on approved claims for reimbursement made to the Federal Rebate Processing System.

(C) FUNDING AVAILABILITY.—The Secretary shall post, on a weekly basis, on the national retrofit website established under subparagraph (A)(ii) information on—

(i) the total number of rebate claims approved for reimbursement; and

(ii) the total amount of funds disbursed for rebates.

(D) PROGRAM ADJUSTMENT OR TERMINATION.—Based on the information described in subparagraph (C), the Secretary shall announce a termination date and reserve funding to process the rebate applications that are in the Federal Rebate Processing System prior to the termination date to ensure that all valid applications made to the program for rebate reimbursement are paid.

(2) MODEL FORMS.—In carrying out this section, the Secretary shall consider the model forms developed by the National Home Performance Council.

(c) ADMINISTRATIVE AND TECHNICAL SUPPORT.—Effective beginning not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators and States as is necessary to carry out this title.

(d) PUBLIC INFORMATION CAMPAIGN.—Not later than 60 days after the date of enactment of this Act, the Administrator shall develop and implement a public education campaign that describes, at a minimum—

(1) the benefits of home energy and water-saving retrofits;

(2) the availability of rebates for—

(A) the installation of qualifying efficiency measures; and

(B) whole home efficiency improvements; and

(3) the requirements for qualified contractors and accredited contractors.

(e) LIMITATION.—Silver Star rebates provided under section 3007 and Gold Star rebates provided under section 3008 may be provided for the same home only if—

(1) Silver Star rebates are awarded prior to Gold Star rebates;

(2) savings obtained from measures under the Silver Star Home Retrofit Program are not counted towards the simulated savings that determine the value of a rebate under the Gold Star Home Retrofit Program; and

(3) the combined Silver Star and Gold Star rebates provided to the individual homeowner do not exceed $8,000.

(f) AVAILABILITY.—Not later than 90 days after the date of enactment of this Act, the Secretary shall ensure that Home Star retrofit rebates are available to all homeowners in the United States to the maximum extent practicable.

SEC. 3004. CONTRACTORS.

(a) CONTRACTOR QUALIFICATIONS FOR SILVER STAR HOME RETROFIT PROGRAM.—A contractor may perform retrofit work under the Silver Star Home Retrofit Program only if the contractor meets or provides—

(1) all applicable contractor licensing requirements established by the applicable State or, if none exist at the State level, the Secretary;

(2) insurance coverage of at least $1,000,000 for general liability, and for such other purposes and in such other amounts as required by the State;

(3) warranties to homeowners that completed work will—

(A) be free of significant defects;

(B) be installed in accordance with the specifications of the manufacturer; and

(C) perform properly for a period of at least 1 year after the date of completion of the work;

(4) an agreement to provide the owner of a home, through a discount, the full economic value of all rebates received under this title with respect to the home; and

(5) an agreement to provide the homeowner, before a contract is executed between the contractor and a homeowner covering the eligible work, a notice of —

(A) the rebate amount the contractor intends to apply for with respect to eligible work under this title; and

(B) the means by which the rebate will be passed through as a discount to the homeowner.

(b) CONTRACTOR QUALIFICATIONS FOR GOLD STAR HOME RETROFIT PROGRAM.—

(1) IN GENERAL.—A contractor may perform retrofit work under the Gold Star Home Retrofit Program only if the contractor—

(A) meets the requirements for qualified contractors under subsection (a);

(B) is accredited—

(i) by the BPI; or

(ii) under other standards that the Secretary shall approve not later than 30 days after the date of submission, in consultation with the Administrator, under an equivalent accreditation approved by the Secretary under which the contractor, at a minimum—

(I) educates the consumer on the value of comprehensive energy retrofit work;

(II) meets whole house contracting standards in conducting home performance work relating to home energy auditing, health and safety testing, heating, air-conditioning, and heat pumps;

(III) employs sufficient levels of staff who are certified to the standards covering the appropriate whole house energy audits and retrofit upgrades;

(IV) maintains calibrated diagnostic equipment for use in conducting energy retrofitting, assessment, and health and safety testing on the house;

(V) records and maintains all project information for review during the quality assurance inspection;

(VI) maintains quality assurance records of internal reviews of the operation and performance of the business;

(VII) adopts a customer dispute resolution policy that establishes a specific time line in resolving any disputes with the consumer; and

(VIII) meets such other standards as are required by the Secretary;

(C) except as provided in paragraph (2), effective 1 year after the date on which funds are provided under this title, employs a certified workforce; and

(D) effective beginning 1 year after the date of enactment of this Act, meets all requirements of an applicable State quality assurance framework.

(2) EXCEPTION.—A contractor described in paragraph (1)(C) may employ a person who is not certified to perform installation work covered under section 3002(4) if the employee—

(A) has not worked for the contractor or on Home Star projects for a period of more than 180 days;

(B) is supervised on each project by a fellow employee who is certified under section 3002(4) to perform the applicable covered work;

(C) is the only person who performs covered installation work on a project and has not been certified under section 3002(4); and

(D) is directly employed by the contractor or the subcontractor of the contractor, and not self employed, or employed through a temporary employment agency, staffing service, or other intermediary.

(c) HEALTH AND SAFETY REQUIREMENTS.—Nothing in this title relieves any contractor from the obligation to comply with applicable Federal, State, and local health and safety code requirements.

SEC. 3005. REBATE AGGREGATORS.

(a) IN GENERAL.—The Secretary shall develop a network of rebate aggregators that can facilitate the delivery of rebates to participating contractors and vendors for discounts provided to homeowners for efficiency retrofit work.

(b) RESPONSIBILITIES.—Rebate aggregators shall—

(1) review the proposed rebate application for completeness and accuracy;

(2) review measures under the Silver Star Home Retrofit Program and savings under the Gold Star Home Retrofit Program for eligibility in accordance with this title;

(3) provide data to the Federal Data Processing Center consistent with data protocols established by the Secretary; and

(4) distribute funds received from DOE to contractors, vendors, or other persons.

(c) PROCESSING REBATE APPLICATIONS.—A rebate aggregator shall—

(1) submit the rebate application to the Federal Rebate Processing Center not later than 14 days after the date of receipt of a rebate application from a contractor; and

(2) distribute funds to the contractor not later than 6 days after the date of receipt from the Federal Rebate Processing System.

(d) ELIGIBILITY.—To be eligible to apply to the Secretary for approval as a rebate aggregator, an entity shall be—

(1) a Home Performance with Energy Star partner;

(2) an entity administering a residential efficiency retrofit program established or approved by a State;

(3) a Federal Power Marketing Administration, an electric utility, or a natural gas utility that has—

(A) an approved residential efficiency retrofit program; and

(B) an established quality assurance provider network; or

(4) an entity that demonstrates to the Secretary that the entity can perform the functions of an rebate aggregator, without disrupting existing residential retrofits in the States that are incorporating the Home Star Program, including demonstration of—

(A) corporate status or status as a State or local government;

(B) the capability to provide electronic data to the Federal Rebate Processing System;

(C) a financial system that is capable of tracking the distribution of rebates to participating contractors; and

(D) coordination and cooperation by the entity with the appropriate State office regarding participation in the existing efficiency programs that will be delivering the Home Star Program.

(e) APPLICATION TO BECOME A REBATE AGGREGATOR.—Not later than 30 days after the date of receipt of an application of an entity seeking to become a rebate aggregator, the Secretary shall approve or deny the application on the basis of the eligibility criteria under subsection (d).

(f) APPLICATION PRIORITY.—In reviewing applications from entities seeking to become rebate aggregators, the Secretary shall give priority to entities that commit—

(1) to reviewing applications for participation in the program from all qualified contractors within a defined geographic region; and

(2) to processing rebate applications more rapidly than the minimum requirements established under the program.

(g) PUBLIC UTILITY COMMISSION EFFICIENCY TARGETS.—The Secretary shall—

(1) develop guidelines for States to use to allow utilities participating as rebate aggregators to count the savings from the participation of the utilities toward State-level savings targets; and

(2) work with States to assist in the adoption of the guidelines for the purposes and duration of the Home Star Retrofit Rebate Program.

SEC. 3006. QUALITY ASSURANCE PROVIDERS.

(a) IN GENERAL.—An entity shall be considered a quality assurance provider under this title if the entity—

(1) is independent of the contractor;

(2) confirms the qualifications of contractors or installers of home efficiency retrofits;

(3) confirms compliance with the requirements of a ''certified workforce''; and

(4) performs field inspections and other measures required to confirm the compliance of the retrofit work under the Silver Star program, and the retrofit work and the use of software simulation savings under the Gold Star program, based on the requirements of this title.

(b) INCLUSIONS.—An entity shall be considered a quality assurance provider under this title if the entity is qualified through—

(1) the International Code Council;

(2) the BPI;

(3) the RESNET;

(4) a State;

(5) a State-approved residential efficiency retrofit program; or

(6) any other entity designated by the Secretary, in consultation with the Administrator.

SEC. 3007. SILVER STAR HOME RETROFIT PROGRAM.

(a) IN GENERAL.—If the energy-efficiency or water-saving retrofit of a home is carried out after the date of enactment of this Act in accordance with this section, a rebate shall be awarded for the energy or water savings retrofit of a home for the installation of savings measures—

(1) selected from the list of energy and water savings measures described in subsection (b);

(2) installed in the home by a qualified contractor not later than 1 year after the date of enactment of this Act;

(3) carried out in compliance with this section; and

(4) subject to the maximum amount limitations established under subsection (d)(4).

(b) ENERGY AND WATER SAVINGS MEASURES.—Subject to subsection (c), a rebate shall be awarded under this section for the installation of the following energy or water savings measures for a home energy or water retrofit that meet technical standards established under this section:

(1) Whole house air-sealing measures (including interior and exterior measures and using sealants, caulks, insulating foams, gaskets, weather-stripping, mastics, and other building materials), in accordance with BPI standards or other procedures approved by the Secretary.

(2) Attic insulation measures that—

(A) include sealing of air leakage between the attic and the conditioned space, in accordance with BPI standards or the attic portions of the DOE or EPA thermal bypass checklist or other procedures approved by the Secretary;

(B) add at least R–19 insulation to existing insulation;

(C) result in at least R–38 insulation in DOE climate zones 1 through 4 and at least R–49 insulation in DOE climate zones 5 through 8, including existing insulation, within the limits of structural capacity; and

(D) cover at least—

(i) 100 percent of an accessible attic; or

(ii) 75 percent of the total conditioned footprint of the house.

(3) Duct seal or replacement that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary; and

(B) in the case of duct replacement, replaces and seals at least 50 percent of a distribution system of the home.

(4) Wall insulation that—

(A) is installed in accordance with BPI standards or other procedures approved by the Secretary;

(B) is to full-stud thickness; and

(C) covers at least 75 percent of the total external wall area of the home.

(5) Crawl space insulation or basement wall and rim joist insulation that is installed in accordance with BPI standards or other procedures approved by the Secretary—

(A) covers at least 500 square feet of crawl space or basement wall and adds at least—

(i) R–19 of cavity insulation or R–15 of continuous insulation to existing crawl space insulation; or

(ii) R–13 of cavity insulation or R–10 of continuous insulation to basement walls; and

(B) fully covers the rim joist with at least R–10 of new continuous or R–13 of cavity insulation.

(6) Window replacement that replaces at least 8 exterior windows, or 75 percent of the exterior windows in a home, whichever is less, with windows that—

(A) are certified by the National Fenestration Rating Council; and

(B) comply with criteria applicable to windows under section 25(c) of the Internal Revenue Code of 1986.

(7) Door replacement that replaces at least 1 exterior door with doors that comply with criteria applicable to doors under the 2010 Energy Star specification for doors.

(8) Skylight replacement that replaces at least 1 skylight with skylights that comply with criteria applicable to skylights under the 2010 Energy Star specification for skylights.

(9)(A) Heating system replacement with—

(i) a natural gas or propane furnace with an AFUE rating of 95 or greater;

(ii) a natural gas or propane boiler with an AFUE rating of 90 or greater;

(iii) an oil furnace with an AFUE rating of 86 or greater and that uses an electrically commutated blower motor;

(iv) an oil boiler with an AFUE rating of 86 or greater and that has temperature reset or thermal purge controls; or

(v) a wood or wood pellet furnace, boiler, or stove, if—

(I) the new system—

(aa) meets at least 75 percent of the heating demands of the home; and

(bb) in the case of a wood stove, replaces an existing wood stove with a stove that is EPA-certified, if a voucher is provided by the installer or other responsible party certifying that the old stove has been removed and made inoperable;

(II) the home has a distribution system (such as ducts, vents, blowers, or affixed fans) that allows heat from the wood stove, furnace, or boiler to reach all or most parts of the home; and

(III) an independent test laboratory approved by the Secretary or the Administrator certifies that the new system—

(aa) has thermal efficiency (with a lower heating value) of at least 75 percent for stoves and 80 percent for furnaces and boilers; and

(bb) has particulate emissions of less than 3.0 grams per hour for wood stoves or pellet stoves, and less than 0.32 lbs per million BTU for outdoor boilers and furnaces.

(B) A rebate may be provided under this section for the replacement of a furnace or boiler described in clauses (i) through (iv) of subparagraph (A) only if the new furnace or boiler is installed in accordance with ANSI/ACCA Standard 5 QI – 2007.

(10) Automatic water temperature controllers that vary boiler water temperature in response to changes in outdoor temperature or the demand for heat, if the retrofit is to an existing boiler and not in conjunction with a new boiler.

(11) Air-conditioner or heat-pump replacement with a new unit that—

(A) is installed in accordance with ANSI/ACCA Standard 5 QI–2007; and

(B) meets or exceeds—

(i) in the case of an air-source conditioner, SEER 16 and EER 13;

(ii) in the case of an air-source heat pump, SEER 15, EER 12.5, and HSPF 8.5; and

(iii) in the case of a geothermal heat pump, Energy Star tier 2 efficiency requirements.

(12) Replacement of or with—

(A) a natural gas or propane water heater with a condensing storage water heater with an energy factor of 0.80 or more or a condensing storage water heater or tankless water heater with a thermal efficiency of 90 percent or more;

(B) a tankless natural gas or propane water heater with an energy factor of at least .82;

(C) a natural gas or propane storage water heater with an energy factor of at least .67;

(D) an indirect water heater with an insulated storage tank that—

(i) has a storage capacity of at least 30 gallons and is insulated to at least R–16; and

(ii) is installed in conjunction with a qualifying boiler described in paragraph (7);

(E) an electric water heater with an energy factor of 2.0 or more;

(F) a water heater with a solar hot water system that—

(i) is certified by the Solar Rating and Certification Corporation under specification SRCC-OG-300; or

(ii) meets technical standards established by the State of Hawaii; or

(G) a water heater installed in conjunction with a qualifying geothermal heat pump described in paragraph (11) that provides domestic water heating through the use of—

(i) year-round demand water heating capability; or

(ii) a desuperheater.

(13) Storm windows that—

(A) are installed on a least 5 single-glazed windows that do not have storm windows;

(B) are installed in a home listed on or eligible for listing in the National Register of Historic Places; and

(C) comply with any procedures that the Secretary may establish for storm windows (including installation).

(14) Roof replacement that replaces at least 75 percent of the roof area with energy-saving roof products certified under the Energy Star program.

(15) Window films that are installed on at least 8 exterior windows, doors, or skylights, or 75 percent of the total exterior square footage of glass, whichever is more, in a home with window films that—

(A) are certified by the National Fenestration Rating Council;

(B) have a Solar Heat Gain Coefficient of 0.43 or less with a visible light-to-solar heat gain ratio of at least 1.1 in 2009 International Energy Conservation Code climate zones 1 through 8; and

(C) are certified to reduce the U-factor of the National Fenestration Rating Council dual pane reference window by 0.05 or greater and are only applied to nonmetal frame dual pane windows in 2009 International Energy Conservation Code climate zones 4 through 8.

(16) WaterSense products or services.

(c) INSTALLATION COSTS.—Measures described in paragraphs (1) through (16) of subsection (b) shall include expenditures for labor and other installation-related costs (including venting system modification and condensate disposal) properly allocable to the onsite preparation, assembly, or original installation of the component.

(d) AMOUNT OF REBATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the amount of a rebate provided under this section shall be $1,000 per measure for the installation of savings measures described in subsection (b)

(2) HIGHER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided to the owner of a home or designee under this section shall be $1,500 per measure for—

(A) attic insulation and air sealing described in subsection (b)(2);

(B) wall insulation described in subsection (b)(4);

(C) a heating system described in subsection (b)(9); and

(D) an air-conditioner or heat-pump replacement described in subsection (b)(11).

(3) LOWER REBATE AMOUNT.—Except as provided in paragraph (4), the amount of a rebate provided under this section shall be—

(A) $125 per door for the installation of up to a maximum of 2 Energy Star doors described in subsection (b)(7) for each home;

(B) $125 per skylight for the installation of up to a maximum of 2 Energy Star skylights described in subsection (b)(8) for each home;

(C) $750 for a maximum of 1 natural gas or propane tankless water heater described in subsection (b)(12)(B) for each home;

(D) $450 for a maximum of 1 natural gas or propane storage water heater described in subsection (b)(12)(C) for each home;

(E) $250 for rim joist insulation described in subsection (b)(5)(B);

(F) $50 for each storm window described in subsection (b)(13);

(G) $500 for a desuperheater described in subsection (b)(12)(G)(ii);

(H) $500 for a wood or pellet stove that has a heating capacity of at least 28,000 BTU per hour (using the upper end of the range listed in the EPA list of Certified Wood Stoves) and meets all of the requirements of subsection (b)(9)(A)(v) other than the requirements in items (aa) and (bb) of subsection (b)(9)(A)(v)(I);

(I) $250 for an automatic water temperature controller described in subsection (b)(10);

(J) $500 for a roof described in subsection (b)(14);

(K) $500 for window films described in subsection (b)(15); and

(L) $150 for any combination of WaterSense products or services described in subsection (b)(16), if the total cost of all WaterSense products or services is at least $300.

(4) MAXIMUM AMOUNT.—The total amount of a rebate provided to the owner of a home or designee under this section shall not exceed the lower of—

(A) $3,000;

(B) the sum of the amounts per measure specified in paragraphs (1) through (3);

(C) 50 percent of the total cost of the installed measures; or

(D) if the Secretary finds that the net value to the homeowner of the rebates is less than the amount of the rebates, the actual net value to the homeowner.

(e) INSULATION PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—

(1) IN GENERAL.—A rebate shall be awarded under this section if—

(A) the measure—

(i) is—

(I) a whole house air-sealing measure described in subsection (b)(1);

(II) an attic insulation measure described in subsection (b)(2);

(III) a duct seal or replacement measure described in subsection (b)(3);

(IV) a wall insulation measure described in subsection (b)(4); or

(V) a crawl space insulation measure or basement wall and rim joist insulation measure described in subsection (b)(5);

(ii) is purchased by a homeowner for installation by the homeowner in a home identified by the address of the homeowner;

(iii) is identified and attributed to a specific home in a submission by the vendor to a rebate aggregator;

(iv) is not part of—

(I) a savings measure described in paragraphs (6) through (11) of subsection (b); and

(II) a retrofit for which a rebate is provided under the Gold Star Home Retrofit Program; and

(v) is not part of a savings measure described in paragraphs (1) through (5) in subsection (b) for which the homeowner received or will receive contracting services; or

(B) educational material on proper installation of the product is provided to the homeowner, including material on air sealing while insulating.

(2) AMOUNT.—A rebate under this subsection shall be awarded in an amount equal to 50 percent of the total cost of the products described in paragraph (1), but not to exceed $250 per home.

(f) QUALIFICATION FOR REBATE UNDER SILVER STAR HOME RETROFIT PROGRAM.—On submission of a claim by a rebate aggregator to the system established under section 3005, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost energy-efficiency measures installed in a home, if—

(1) the measures undertaken for the retrofit are—

(A) eligible measures described on the list established under subsection (b);

(B) installed properly in accordance with applicable technical specifications; and

(C) installed by a qualified contractor;

(2) the amount of the rebate does not exceed the maximum amount described in subsection (d)(4);

(3) not less than—

(A) 20 percent of the retrofits performed by each qualified contractor under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; or

(B) in the case of qualified contractor that uses a certified workforce, 10 percent of the retrofits performed under this section are randomly subject to a third-party field verification of all work associated with the retrofit by a quality assurance provider; and

(4)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect, if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(g) HOMEOWNER COMPLAINTS.—

(1) IN GENERAL.—During the 1-year warranty period, a homeowner may make a complaint under the quality assurance program that compliance with the requirements of this section has not been achieved.

(2) VERIFICATION.—

(A) IN GENERAL.—The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION.—A verification under this paragraph shall be—

(i) in addition to verifications conducted under subsection (f)(3); and

(ii) corrected in accordance with subsection (f)(4).

(h) AUDITS.—

(1) IN GENERAL.—On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may—

(A) recoup the amount of the incorrect payment; or

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

SEC. 3008. GOLD STAR HOME RETROFIT PROGRAM.

(a) IN GENERAL.—If the energy efficiency or water savings retrofit of a home is carried out after the date of enactment of this Act by an accredited contractor in accordance with this section, a rebate shall be awarded for retrofits that achieve whole home energy or water savings.

(b) AMOUNT OF REBATE.—

(1) ENERGY SAVINGS.—Subject to subsection (e), the amount of a rebate provided to the owner of a home or a designee of the owner for energy savings under this section shall be—

(A) $3,000 for a 20-percent reduction in whole home energy consumption; and

(B) an additional $1,000 for each additional 5-percent reduction up to the lower of—

(i) $8,000; or

(ii) 50 percent of the total retrofit cost (including the cost of audit and diagnostic procedures).

(2) WATER SAVINGS.—Subject to subsection (e), the amount of a rebate provided to the owner of a home or a designee of the owner for a reduction in water consumption under this section shall be—

(A) $500 for measures that achieve a 20-percent reduction in water consumption; and

(B) an additional $100 for each additional 5-percent reduction in water consumption up to the lower of—

(i) $1,200; or

(ii) 50 percent of the total retrofit cost (including the cost of audit and diagnostic procedures).

(c) ENERGY AND WATER SAVINGS.—

(1) IN GENERAL.—Reductions in whole home energy or water consumption under this section shall be determined by a comparison of the simulated energy or water consumption of the home before and after the retrofit of the home.

(2) DOCUMENTATION.—The percent improvement in energy or water consumption under this section shall be documented through—

(A)(i) the use of a whole home simulation software program that has been approved as a commercial alternative under the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.); or

(ii) a equivalent performance test established by the Secretary, in consultation with the Administrator; or

(B)(i) the use of a whole home simulation software program that has been approved under RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(ii) an equivalent performance test established by the Secretary; or

(iii) a State-certified equivalent rating network, as specified by IRS Notice 2008–35; or

(iv) a HERS rating system required by State law.

(3) MONITORING.—The Secretary—

(A) shall continuously monitor the software packages used for determining rebates under this section; and

(B) may disallow the use of software programs that improperly assess energy or water savings.

(4) ASSUMPTIONS AND TESTING.—The Secretary may—

(A) establish simulation tool assumptions for the establishment of the pre-retrofit energy or water consumption;

(B) require compliance with software performance tests covering—

(i) mechanical system performance;

(ii) duct distribution system efficiency;

(iii) hot water performance; or

(iv) other measures; and

(C) require the simulation of pre-retrofit energy or water usage to be bounded by metered pre-retrofit energy or water usage.

(5) RECOMMENDED MEASURES.—The simulation tool shall have the ability at a minimum to assess the savings associated with all the measures for which incentives are specifically provided under the Silver Star Home Retrofit Program.

(6) QUANTIFICATION OF WATER SAVINGS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall make public an approved methodology for use in quantifying reductions in water consumption for the purpose of carrying out this section.

(d) QUALIFICATION FOR REBATE UNDER GOLD STAR HOME RETROFIT PROGRAM.—On submission of a claim by a rebate aggregator to the system established under section 3005, the Secretary shall provide reimbursement to the rebate aggregator for reduced-cost whole-home retrofits, if—

(1) the retrofit is performed by an accredited contractor;

(2) the amount of the reimbursement is not more than the amount described in subsection (b);

(3) documentation described in subsection (c) is transmitted with the claim;

(4) a home receiving a whole-home retrofit is subject to random third-party field verification by a quality assurance provider in accordance with subsection (e); and

(5)(A) the installed measures will be brought into compliance with the specifications and quality standards for the Home Star Retrofit Rebate Program, by the installing qualified contractor, at no additional cost to the homeowner, not later than 14 days after the date of notification of a defect if a field verification by a quality assurance provider finds that corrective work is needed;

(B) a subsequent quality assurance visit is conducted to evaluate the remedy not later than 7 days after notification by the contractor that the defect has been corrected; and

(C) notification of disposition of the visit occurs not later than 7 days after the date of that visit.

(e) VERIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), all work installed in a home receiving a whole-home retrofit by an accredited contractor under this section shall be subject to random third-party field verification by a quality assurance provider at a rate of—

(A) 15 percent; or

(B) in the case of work performed by an accredited contractor using a certified workforce, 10 percent.

(2) VERIFICATION NOT REQUIRED.—A home shall not be subject to random third-party field verification under this section if—

(A) a post-retrofit home energy or water rating is conducted by an eligible certifier in accordance with—

(i) RESNET Publication No. 06–001 (or a successor publication approved by the Secretary);

(ii) a State-certified equivalent rating network, as specified in IRS Notice 2008–35; or

(iii) a HERS rating system required by State law;

(B) the eligible certifier is independent of the qualified contractor or accredited contractor in accordance with RESNET Publication No. 06–001 (or a successor publication approved by the Secretary); and

(C) the rating includes field verification of measures.

(f) HOMEOWNER COMPLAINTS.—

(1) IN GENERAL.—A homeowner may make a complaint under the quality assurance program during the 1-year warranty period that compliance with the requirements of this section has not been achieved.

(2) VERIFICATION.—

(A) IN GENERAL.—The quality assurance program shall provide that, on receiving a complaint under paragraph (1), an independent quality assurance provider shall conduct field verification on the retrofit work performed by the contractor.

(B) ADMINISTRATION.—A verification under this paragraph shall be—

(i) in addition to verifications conducted under subsection (e)(1); and

(ii) corrected in accordance with subsection (e).

(g) AUDITS.—

(1) IN GENERAL.—On making payment for a submission under this section, the Secretary shall review rebate requests to determine whether program requirements were met in all respects.

(2) INCORRECT PAYMENT.—On a determination of the Secretary under paragraph (1) that a payment was made incorrectly to a party, the Secretary may—

(A) recoup the amount of the incorrect payment; or

(B) withhold the amount of the incorrect payment from the next payment made to the party pursuant to a subsequent request.

SEC. 3009. GRANTS TO STATES AND INDIAN TRIBES.

(a) IN GENERAL.—A State or Indian tribe that receives a grant under subsection (d) shall use the grant for—

(1) administrative costs;

(2) oversight of quality assurance programs;

(3) development and implementation of ongoing quality assurance framework;

(4) establishment and delivery of financing pilots in accordance with this title;

(5) coordination with existing residential retrofit programs and infrastructure development to assist deployment of the Home Star program;

(6) assisting in the delivery of services to rental units; and

(7) the costs of carrying out the responsibilities of the State or Indian tribe under the Silver Star Home Retrofit Program and the Gold Star Home Retrofit Program.

(b) INITIAL GRANTS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall make the initial grants available under this section.

(c) INDIAN TRIBES.—The Secretary shall reserve an appropriate amount of funding to be made available to carry out this section for each fiscal year to make grants available to Indian tribes under this section.

(d) STATE ALLOTMENTS.—From the amounts made available to carry out this section for each fiscal year remaining after the reservation required under subsection (c), the Secretary shall make grants available to States in accordance with section 3016.

(e) QUALITY ASSURANCE PROGRAMS.—

(1) IN GENERAL.—A State or Indian tribe may use a grant made under this section to carry out a quality assurance program that is—

(A) operated as part of a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);

(B) managed by the office or the designee of the office that is—

(i) responsible for the development of the plan under section 362 of that Act (42 U.S.C. 6322); and

(ii) to the maximum extent practicable, conducting an existing efficiency program; and

(C) in the case of a grant made to an Indian tribe, managed by an entity designated by the Indian tribe to carry out a quality assurance program or a national quality assurance program manager.

(2) NONCOMPLIANCE.—If the Secretary determines that a State or Indian tribe has not provided or cannot provide adequate oversight over a quality assurance program to ensure compliance with this title, the Secretary may—

(A) withhold further quality assurance funds from the State or Indian tribe; and

(B) require that quality assurance providers operating in the State or by the Indian tribe be overseen by a national quality assurance program manager selected by the Secretary.

(f) IMPLEMENTATION.—A State or Indian tribe that receives a grant under this section may implement a quality assurance program through the State, the Indian tribe, or a third party designated by the State or Indian tribe, including—

(1) an energy or water service company;

(2) an electric utility;

(3) a natural gas utility;

(4) a third-party administrator designated by the State or Indian tribe;

(5) a unit of local government; or

(6) a public or private water utility.

(g) PUBLIC-PRIVATE PARTNERSHIPS.—A State or Indian tribe that receives a grant under this section are encouraged to form partnerships with utilities, energy service companies, and other entities—

(1) to assist in marketing a program;

(2) to facilitate consumer financing;

(3) to assist in implementation of the Silver Star Home Retrofit Program and the Gold Star Home Retrofit Program, including installation of qualified retrofit measures; and

(4) to assist in implementing quality assurance programs.

(h) COORDINATION OF REBATE AND EXISTING STATE-SPONSORED PROGRAMS.—

(1) IN GENERAL.—A State or Indian tribe shall, to the maximum extent practicable, prevent duplication through coordination of a program authorized under this title with—

(A) the Energy Star appliance rebates program authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115); and

(B) comparable programs planned or operated by States, political subdivisions, electric and natural gas utilities, Federal power marketing administrations, and Indian tribes.

(2) EXISTING PROGRAMS.—In carrying out this subsection, a State or Indian tribe shall—

(A) give priority to—

(i) comprehensive retrofit programs in existence on the date of enactment of this Act, including programs under the supervision of State utility regulators; and

(ii) using Home Star funds made available under this title to enhance and extend existing programs; and

(B) seek to enhance and extend existing programs by coordinating with administrators of the programs.

SEC. 3010. QUALITY ASSURANCE FRAMEWORK.

(a) IN GENERAL.—Not later than 180 days after the date that the Secretary initially provides funds to a State under this title, the State shall submit to the Secretary a plan to implement a quality assurance framework.

(b) MODEL STATE PLANS.—The Secretary shall—

(1) as soon as practicable after the date of enactment of this Act, solicit the submission of model State quality assurance framework plans that are consistent with this section; and

(2) not later than 60 days after the date of enactment or the receipt of funding to carry out this title (whichever is later), approve 1 or more such model plans that incorporate nationally consistent high standards for optional use by States.

(c) IMPLEMENTATION.—The State shall—

(1) develop a quality assurance framework in consultation with industry stakeholders, including representatives of efficiency program managers, contractors, and environmental, efficiency, and labor organizations; and

(2) implement the quality assurance framework not later than 1 year after the date of enactment of this Act.

(d) COMPONENTS.—The quality assurance framework established under this section shall include—

(1) a requirement that contractors performing covered retrofits meet—

(A) the accreditation, workforce certification, and all other requirements established under section 3004(b); and

(B) minimum standards for accredited contractors, including—

(i) compliance with applicable Federal, State, and local laws;

(ii) maintenance of records needed to verify compliance; and

(iii) use of independent contractors only when appropriately classified as such pursuant to Revenue Ruling 87–41 and section 530 of the Revenue Act of 1978 and relevant State law;

(2) maintenance of a list of accredited contractors;

(3) requirements for maintenance and delivery to the Federal Rebate Processing System of information needed to verify compliance and ensure appropriate compensation for quality assurance providers;

(4) targets and realistic plans for—

(A) the recruitment of minority- and women-owned small business enterprises;

(B) the employment of graduates of training programs that primarily serve targeted workers;

(C) the employment of targeted workers; and

(D) the availability of financial assistance under the Home Star loan program to—

(i) public use microdata areas that have a poverty rate of 12 percent or more; and

(ii) homeowners served by units of local government in jurisdictions that have an unemployment rate that is 2 percent higher than the national unemployment rate;

(5) a plan to link workforce training for efficiency retrofits with training for the broader range of skills and occupations in construction or emerging clean energy industries;

(6) quarterly reports to the Secretary on the progress of implementation of the quality assurance framework and any success in meeting the targets and plans; and

(7) maintenance of a list of qualified quality assurance providers and minimum standards for the quality assurance providers.

(e) NONCOMPLIANCE.—If the Secretary determines that a State that has elected to implement a quality assurance program, but has failed to plan, develop, or implement a

quality assurance framework in accordance with this section, the Secretary shall suspend further grants for State administration pursuant to section 3016(b)(1).

(f) COORDINATION.—The Secretary shall take reasonable steps consistent with the existing authority of the Secretary to promote coordination between State quality assurance frameworks and any residential retrofit program funded in whole or in part by the Secretary, which may include the adoption of standards established under the quality assurance frameworks and the use of participating accredited contractors.

(g) EXCLUSIONS.—The quality assurance frameworks shall not apply to any measures or activities under the Silver Star Home Retrofit Program.

SEC. 3011. REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the use of funds under this title.

(b) CONTENTS.—The report shall include a description of—

(1) the savings produced as a result of this title;

(2) the direct and indirect employment created as a result of the programs supported by the funds provided under this title;

(3) the specific entities implementing the efficiency programs;

(4) the beneficiaries who received the efficiency improvements;

(5) the manner in which funds provided under this title were used;

(6) the sources (such as mortgage lenders, utility companies, and local governments) and types of financing used by the beneficiaries to finance the retrofit expenses that were not covered by grants provided under this title; and

(7) the results of verification requirements; and

(8) any other information the Secretary considers appropriate

(c) NONCOMPLIANCE.—If the Secretary determines that a rebate aggregator, State, or Indian tribe has not provided the information required under this section, the Secretary shall provide to the rebate aggregator, State, or Indian tribe a period of at least 90 days to provide any necessary information, subject to penalties imposed by the Secretary for entities other than States and Indian tribes, which may include withholding of funds or reduction of future grant amounts.

SEC. 3012. ADMINISTRATION.

(a) IN GENERAL.—Subject to section 3016(b), not later than 30 days after the date of enactment of this Act, the Secretary shall provide such administrative and technical support to rebate aggregators, States, and Indian tribes as is necessary to carry out the functions designated to States under this title.

(b) APPOINTMENT OF PERSONNEL.—Notwithstanding the provisions of title 5, United States Code, governing appointments in the competitive service and General Schedule classifications and pay rates, the Secretary may appoint such professional and administrative personnel as the Secretary considers necessary to carry out this title.

(c) RATE OF PAY.—The rate of pay for a person appointed under subsection (a) shall not exceed the maximum rate payable for GS–15 of the General Schedule under chapter 53 of title 5, United States Code.

(d) CONSULTANTS.—Notwithstanding section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary may retain such consultants on a noncompetitive basis as the Secretary considers necessary to carry out this title.

(e) CONTRACTING.—In carrying out this title, the Secretary may waive all or part of any provision of the Competition in Contracting Act of 1984 (Public Law 98–369; 98 Stat. 1175), an amendment made by that Act, or the Federal Acquisition Regulation on a determination that circumstances make compliance with the provisions contrary to the public interest.

(f) REGULATIONS.—

(1) IN GENERAL.—Notwithstanding section 553 of title 5, United States Code, the Secretary may issue regulations that the Secretary, in the sole discretion of the Secretary, determines necessary to carry out the Home Star Retrofit Rebate Program.

(2) DEADLINE.—If the Secretary determines that regulations described in paragraph (1) are necessary, the regulations shall be issued not later than 60 days after the date of the enactment of this Act.

(3) LIMITATIONS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not use the authority provided under this subsection—

(i) to develop, adopt, or implement a public labeling system that rates and compares the energy or water performance of 1 home with another home; or

(ii) to require the public disclosure of an energy or water performance evaluation or rating developed for any specific home.

(B) ADMINISTRATION.—Nothing in this paragraph precludes—

(i) the computation, collection, or use by the Secretary, rebate aggregators, quality assurance providers, or States, for the purposes of carrying out sections 3007 and 3008, of information on the rating and comparison of the energy and water performance of homes with and without energy or water efficiency features or an energy or water performance evaluation or rating;

(ii) the use and publication of aggregate data (without identifying individual homes or participants) based on information referred to in clause (i) to determine or demonstrate the performance of the Home Star program; or

(iii) the provision of information referred to in clause (i) with respect to a specific home—

(I) to the State, homeowner, quality assurance provider, rebate aggregator, or contractor performing retrofit work on that home, or an entity providing Home Star services, as necessary to enable carrying out this title; or

(II) for purposes of prosecuting fraud or abuse.

(4) WATERSENSE PRODUCTS OR SERVICES.—In issuing regulations under this subsection, the Secretary shall coordinate with the Administrator to carry out the provisions of the Home Star Retrofit Rebate Program relating to WaterSense products or services.

(g) INFORMATION COLLECTION.—Chapter 35 of title 44, United States Code, shall not apply to any information collection requirement necessary for the implementation of the Home Star Retrofit Rebate Program.

(h) ADJUSTMENT OF REBATE AMOUNTS.—Effective beginning on the date that is 180 days after the date of enactment of this Act, the Secretary may, after not less than 30 days public notice, prospectively adjust the rebate amounts provided in this section based on—

(1) the use of the Silver Star Home Retrofit Program and the Gold Star Home Retrofit Program; and

(2) other program data.

SEC. 3013. TREATMENT OF REBATES.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, rebates received for eligible measures under this title—

(1) shall not be considered taxable income to a homeowner;

(2) shall prohibit the consumer from applying for a tax credit allowed under section 25C or 25D of that Code for the same eligible measures performed in the home of the homeowner; and

(3) shall be considered a credit allowed under section 25C or 25D of that Code for purposes of any limitation on the amount of the credit under that section.

(b) NOTICE.—

(1) IN GENERAL.—A participating contractor shall provide notice to a homeowner of the provisions of subsection (a) before eligible work is performed in the home of the homeowner.

(2) NOTICE IN REBATE FORM.—A homeowner shall be notified of the provisions of subsection (a) in the appropriate rebate form developed by the Secretary, in consultation with the Secretary of the Treasury.

(3) AVAILABILITY OF REBATE FORM.—A participating contractor shall obtain the rebate form on a designated website in accordance with section 3003(b)(1)(A)(iii).

SEC. 3014. PENALTIES.

(a) IN GENERAL.—It shall be unlawful for any person to violate this title (including any regulation issued under this title), other than a violation as the result of a clerical error.

(b) CIVIL PENALTY.—Any person who commits a violation of this title shall be liable to the United States for a civil penalty in an amount that is not more than the higher of—

(1) $15,000 for each violation; or

(2) 3 times the value of any associated rebate under this title.

(c) ADMINISTRATION.—The Secretary may—

(1) assess and compromise a penalty imposed under subsection (b); and

(2) require from any entity the records and inspections necessary to enforce this title.

(d) EXCLUSION.—A State may bar a contractor from receiving receive rebates under this title if the contractor has committed repeated violations of this title.

(e) FRAUD.—In addition to any civil penalty, any person who commits a fraudulent violation of this title shall be subject to criminal prosecution.

SEC. 3015. HOME STAR EFFICIENCY LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means a homeowner who receives financial assistance from a qualified financing entity to carry out energy or water efficiency or renewable energy improvements to an existing home or other residential building of the homeowner in accordance with the Gold Star Home Retrofit Program or the Silver Star Home Retrofit Program.

(2) PROGRAM.—The term ''program'' means the Home Star Efficiency Loan Program established under subsection (b).

(3) QUALIFIED FINANCING ENTITY.—The term ''qualified financing entity'' means a State, political subdivision of a State, tribal government, electric utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, public water system, or any other qualified entity that—

(A) meets the eligibility requirements of this section; and

(B) is designated by the Governor of a State in accordance with subsection (e).

(4) QUALIFIED LOAN PROGRAM MECHANISM.—The term ''qualified loan program mechanism'' means a loan program that is—

(A) administered by a qualified financing entity; and

(B) principally funded—

(i) by funds provided by or overseen by a State or local government; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(b) ESTABLISHMENT.—The Secretary shall establish a Home Star Efficiency Loan Program under which the Secretary shall make funds available to States to support financial assistance provided by qualified financing entities for making, to existing homes, efficiency improvements that qualify under the Gold Star Home Retrofit Program or the Silver Star Home Retrofit Program.

(c) ELIGIBILITY OF QUALIFIED FINANCING ENTITIES.—To be eligible to participate in the program, a qualified financing entity shall—

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of making improvements described in subsection (b);

(2) require all financed improvements to be performed by contractors in a manner that meets minimum standards that are at least as stringent as the standards provided under sections 3007 and 3008; and

(3) establish standard underwriting criteria to determine the eligibility of program applicants, which criteria shall be consistent with—

(A) with respect to unsecured consumer loan programs, standard underwriting criteria used under the energy loan program of the Federal National Mortgage Association; or

(B) with respect to secured loans or other forms of financial assistance, commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the program in the State).

(d) ALLOCATION.—In making funds available to States for each fiscal year under this section, the Secretary shall use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(e) QUALIFIED FINANCING ENTITIES.—Before making funds available to a State under this section, the Secretary shall require the Governor of the State to provide to the Secretary a letter of assurance that the State—

(1) has 1 or more qualified financing entities that meet the requirements of this section;

(2) has established a qualified loan program mechanism that—

(A) includes a methodology to ensure credible energy or water savings or renewable energy generation;

(B) incorporates an effective repayment mechanism, which may include—

(i) on-utility-bill repayment;

(ii) tax assessment or other form of property assessment financing;

(iii) municipal service charges;

(iv) energy, water, or energy or water efficiency services contracts;

(v) efficiency power purchase agreements;

(vi) unsecured loans applying the underwriting requirements of the energy loan program of the Federal National Mortgage Association; or

(vii) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features; and

(C) will provide, in a timely manner, all information regarding the administration of the program as the Secretary may require to permit the Secretary to meet the reporting requirements of subsection (h).

(f) USE OF FUNDS.—Funds made available to States under the program may be used to support financing products offered by qualified financing entities to eligible participants for eligible efficiency work, by providing—

(1) interest rate reductions;

(2) loan loss reserves or other forms of credit enhancement;

(3) revolving loan funds from which qualified financing entities may offer direct loans; or

(4) other debt instruments or financial products necessary—

(A) to maximize leverage provided through available funds; and

(B) to support widespread deployment of efficiency finance programs.

(g) USE OF REPAYMENT FUNDS.—In the case of a revolving loan fund established by a State described in subsection (f)(3), a qualified financing entity may use funds repaid by eligible participants under the program to provide financial assistance for additional eligible participants to make improvements described in subsection (b) in a manner that is consistent with this section or other such criteria as are prescribed by the State.

(h) PROGRAM EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes—

(1) how many eligible participants have participated in the program;

(2) how many jobs have been created through the program, directly and indirectly;

(3) what steps could be taken to promote further deployment of energy and water efficiency and renewable energy retrofits;

(4) the quantity of verifiable energy and water savings, homeowner energy and water bill savings, and other benefits of the program; and

(5) the performance of the programs carried out by qualified financing entities under this section, including information on the rate of default and repayment.

(i) CREDIT SUPPORT FOR FINANCING PROGRAMS.—Section 1705 of the Energy Policy Act of 2005 (42 U.S.C. 16516) (as amended by section 2132(b)) is amended—

(1) in subsection (a), by adding at the end the following:

''(5) Energy and water efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment, including financing programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment.''.

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

''(e) CREDIT SUPPORT FOR FINANCING PROGRAMS.—

''(1) IN GENERAL.—In the case of programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment described in subsection (a)(4), the Secretary may—

''(A) offer loan guarantees for portfolios of debt obligations; and

''(B) purchase or make commitments to purchase portfolios of debt obligations.

''(2) TERM.—Notwithstanding section 1702(f), the term of any debt obligation that receives credit support under this subsection shall require full repayment over a period not to exceed the lesser of—

''(A) 30 years; and

''(B) the projected weighted average useful life of the measure or system financed by the debt obligation or portfolio of debt obligations (as determined by the Secretary).

''(3) UNDERWRITING.—The Secretary may—

''(A) delegate underwriting responsibility for portfolios of debt obligations under this subsection to financial institutions that meet qualifications determined by the Secretary; and

''(B) determine an appropriate percentage of loans in a portfolio to review in order to confirm sound underwriting.

''(4) ADMINISTRATION.—Subsections (c) and (d)(3) of section 1702 and subsection (c) of this section shall not apply to loan guarantees made under this subsection.''.

(j) TERMINATION OF EFFECTIVENESS.—The authority provided by this section and the amendments made by this section terminates effective on the date that is 2 years after the date of enactment of this Act.

SEC. 3016. FUNDING.

(a) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this title $5,000,000,000, to remain available until September 30, 2012.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this title the funds transferred under paragraph (1), without further appropriation.

(3) MAINTENANCE OF FUNDING.—Funds provided under this section shall supplement and not supplant any Federal and State funding provided to carry out efficiency programs in existence on the date of enactment of this Act.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—Of the amount provided under subsection (a), $380,000,000 or not more than 6 percent, whichever is less, shall be used to carry out section 3009.

(2) DISTRIBUTION TO STATE ENERGY OFFICES.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall—

(i) provide to State energy offices 25 percent of the funds described in paragraph (1); and

(ii) determine a formula to provide the balance of funds to State energy offices through a performance-based system.

(B) ALLOCATION.—

(i) ALLOCATION FORMULA.—Funds described in subparagraph (A)(i) shall be made available in accordance with the allocation formula for State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(ii) PERFORMANCE-BASED SYSTEM.—The balance of the funds described in subparagraph (A)(ii) shall be made available in accordance with the performance-based system described in subparagraph (A)(ii) designed to support the objectives of achieving efficiency gains, employment of underemployed workers, and implementing quality assurance programs and frameworks in participating States.

(c) QUALITY ASSURANCE COSTS.—

(1) IN GENERAL.—Of the amount provided under subsection (a), not more than 5 percent shall be used to carry out the quality assurance provisions of this title.

(2) MANAGEMENT.—Funds provided under this subsection shall be overseen by—

(A) State energy offices described in subsection (b)(2); or

(B) other entities determined by the Secretary to be eligible to carry out quality assurance functions under this title.

(3) DISTRIBUTION TO QUALITY ASSURANCE PROVIDERS OR REBATE AGGREGATORS.—The Secretary shall use funds provided under this subsection to compensate quality assurance providers, or rebate aggregators, for services under the Silver Star Home Retrofit Program or the Gold Star Home Retrofit Program through the Federal Rebate Processing Center based on the services provided to contractors under a quality assurance program and rebate aggregation.

(4) INCENTIVES.—The amount of incentives provided to quality assurance providers or rebate aggregators shall be—

(A)(i) in the case of the Silver Star Home Retrofit Program—

(I) $25 per rebate review and submission provided under the program; and

(II) $150 for each field inspection conducted under the program; and

(ii) in the case of the Gold Star Home Retrofit Program—

(I) $35 for each rebate review and submission provided under the program; and

(II) $300 for each field inspection conducted under the program; or

(B) such other amounts as the Secretary considers necessary to carry out the quality assurance provisions of this title.

(d) TRACKING OF REBATES AND EXPENDITURES.—Of the amount provided under subsection (a), not more than $150,000,000 shall be used for costs associated with database systems to track rebates and expenditures under this title and related administrative costs incurred by the Secretary.

(e) PUBLIC EDUCATION AND COORDINATION.—Of the amount provided under subsection (a), not more than $10,000,000 shall be used for costs associated with public education and coordination with the Federal Energy Star program incurred by the Administrator.

(f) INDIAN TRIBES.—Of the amount provided under subsection (a), the Secretary shall reserve not more than 3 percent to make grants available to Indian tribes under this section.

(g) SILVER STAR HOME RETROFIT PROGRAM.—

(1) IN GENERAL.—In the case of the Silver Star Home Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (f), ⅔ of the remaining funds for the 1-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Silver Star Home Retrofit Program.

(2) PRODUCTS PURCHASED WITHOUT INSTALLATION SERVICES.—Of the amounts made available for the Silver Star Home Retrofit Program under this section, not more than $250,000,000 shall be made available for rebates under section 3007(e).

(h) GOLD STAR HOME RETROFIT PROGRAM.—

(1) IN GENERAL.—In the case of the Gold Star Home Retrofit Program, of the amount provided under subsection (a) after funds are provided in accordance with subsections (b) through (g), ⅓ of the remaining funds for the 2-year period beginning on the date of enactment of this Act (less any amounts required under subsection (f)) shall be used by the Secretary to provide rebates and incentives authorized under the Gold Star Home Retrofit Program.

(2) WATER EFFICIENCY RETROFITS.—Of the amounts made available for the Gold Star Home Retrofit Program under this section, $70,000,000 shall be made available for rebates for water efficiency retrofits under section 3008.

(i) PROGRAM REVIEW AND BACKSTOP FUNDING.—

(1) REVIEW AND ANALYSIS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall perform a State-by-State analysis and review the distribution of Home Star retrofit rebates under this title.

(B) RENTAL UNITS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall perform a review and analysis, with input and review from the Secretary of Housing and Urban Development, of the procedures for delivery of services to rental units.

(2) ADJUSTMENT.—The Secretary may allocate technical assistance funding to assist States that, as determined by the Secretary—

(A) have not sufficiently benefitted from the Home Star Retrofit Rebate Program; or

(B) in which rental units have not been adequately served.

(j) RETURN OF UNDISBURSED FUNDS.—

(1) SILVER STAR HOME RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Silver Star Home Retrofit Program by the date that is 1 year after the date of enactment of this Act, any undisbursed funds shall be made available to the Gold Star Home Retrofit Program.

(2) GOLD STAR HOME RETROFIT PROGRAM.—If the Secretary has not disbursed all the funds available for rebates under the Gold Star Home Retrofit Program by the date that is 2 years after the date of enactment of this Act, any undisbursed funds shall be returned to the Treasury.

(k) FINANCING.—Of the amounts allocated to the States under subsection (b), not less than $200,000,000 shall be used to carry out the financing provisions of this title in accordance with section 3015.

DIVISION D—PROTECTING THE ENVIRONMENT

TITLE XL—LAND AND WATER CONSERVATION AUTHORIZATION AND FUNDING

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Land and Water Conservation Authorization and Funding Act of 2010''.

SEC. 4002. PERMANENT AUTHORIZATION; FULL FUNDING.

(a) PURPOSES.—The purposes of the amendments made by subsection (b) are—

(1) to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5); and

(2) to maximize the effectiveness of the fund for future generations.

(b) AMENDMENTS.—

(1) PERMANENT AUTHORIZATION.—Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5) is amended—

(A) in the matter preceding subsection (a), by striking ''During the period ending September 30, 2015, there'' and inserting ''There''; and

(B) in subsection (c)—

(i) in paragraph (1), by striking ''through September 30, 2015''; and

(ii) in paragraph (2), by striking '': *Provided*,'' and all that follows through the end of the sentence and inserting a period..

(2) FULL FUNDING.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6) is amended to read as follows:

''SEC. 3. AVAILABILITY OF FUNDS.

''(a) IN GENERAL.—

''(1) FISCAL YEARS 2011 THROUGH 2015.—For each of fiscal years 2011 through 2015, $900,000,000 of amounts covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act, without further appropriation.

''(2) FISCAL YEAR 2016.—For fiscal year 2016—

''(A) $425,000,000 of amounts covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act, without further appropriation; and

''(B) the remainder of amounts covered into the fund shall be available subject to appropriations, which may be made without fiscal year limitation.

''(3) FISCAL YEARS 2017 THROUGH 2020.—For each of fiscal years 2017 through 2020, amounts covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act subject to appropriations, which may be made without fiscal year limitation.

''(4) FISCAL YEAR 2021 AND SUBSEQUENT FISCAL YEARS.—For fiscal year 2021 and each fiscal year thereafter—

''(A) $500,000,000 of amounts covered into the fund under section 2 shall be available to carry out the purposes of this Act, without further appropriation; and

''(B) the remainder of amounts covered into the fund shall be available subject to appropriations, which may be made without fiscal year limitation.

''(b) USES.—Amounts made available for obligation or expenditure from the fund may be obligated or expended only as provided in this Act.''.

(c) ALLOCATION OF LAND AND WATER CONSERVATION FUND FOR STATE AND FEDERAL PURPOSES.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7) is amended—

(1) in the first sentence, by inserting ''or expenditures'' after ''appropriations'';

(2) in the second sentence—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by inserting before the period at the end the following: '', including the amounts to be allocated from the fund for Federal and State purposes''; and

(3) by striking ''Those appropriations from'' and all that follows through the end of the section.

(d) CONFORMING AMENDMENTS.—Section 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(b)) is amended —

(1) in the matter preceding paragraph (1), by inserting ''or expended'' after ''appropriated'';

(2) in paragraph (1)—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by striking ''; and'' and inserting a period; and

(3) in the first sentence of paragraph (2), by inserting ''or expenditure'' after ''appropriation''.

(e) FEDERAL LAND ACQUISITION PROJECTS.—Section 7(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(2) in the matter preceding paragraph (2) (as redesignated by paragraph (1), by striking ''Moneys appropriated'' and all that follows through ''subpurposes'' and inserting the following:

''(1) PRIORITY LIST.—

''(A) IN GENERAL.—The President shall transmit, as part of the annual budget proposal, a priority list for Federal land acquisition projects.

''(B) AVAILABILITY OF AMOUNTS.—

''(i) IN GENERAL.—Amounts shall be made available from the fund, without further appropriation, on the date that is 15 days after the date on which the Congress adjourns sine die for each year, for the projects on the priority list of the President, unless prior to that date, legislation is enacted establishing an alternate priority list, in which case amounts from the fund shall be made available, without further appropriation, for expenditure on the projects on the alternate priority list.

''(ii) ALTERNATE PRIORITY LIST.—If Congress enacts legislation establishing an alternate priority list and the priority list provides for less than the amount made available for that fiscal year under this subsection, the difference between that amount and the amount required to fund projects on

the alternate priority list shall be available for expenditure, without further appropriation, in accordance with the priority list submitted by the President.

''(C) DUTIES OF SECRETARIES.—

''(i) IN GENERAL.—In developing the annual land acquisition priority list required under subparagraph (A), the President shall require the Secretary of the Interior and the Secretary of Agriculture to develop the priority list for the sites under the jurisdiction of that Secretary.

''(ii) CONSULTATION.—The Secretary of the Interior and the Secretary of Agriculture shall prepare the priority list described in subparagraph (A) in consultation with the head of each affected Federal agency.

''(iii) RECREATIONAL ACCESS.—

''(I) IN GENERAL.—In preparing the priority list under subparagraph (A), the Secretary of the Interior and the Secretary of Agriculture shall ensure that not less than 1.5 percent of the annual authorized funding amount is made available each year for projects that secure recreational public access to existing Federal public land for hunting, fishing, and other recreational purposes through easements, rights-of-way, or fee title acquisitions.

''(II) ACQUISITION OF LAND.—For each recreational access project carried out under subclause (I), the land or interest in land shall be acquired by the Federal Government only from willing sellers.''; and

(3) in paragraph (2) (as redesignated by paragraph (1)), by striking ''For the acquisition of land'' and all that follows through ''as follows:'' and inserting the following:

''(3) USE OF FUNDS.—Amounts from the fund for the acquisition of land, waters, or interests in land or waters under this Act shall be used as follows:''.

(f) CONFORMING AMENDMENT.—Section 9 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–10a) is amended in the first sentence by striking ''section 7(a)(1) of this Act'' and inserting ''section 7(a)(2)''.

TITLE XLI—NATIONAL WILDLIFE REFUGE SYSTEM RESOURCE PROTECTION

SEC. 4101. SHORT TITLE.

This title may be cited as the ''National Wildlife Refuge System Resource Protection Act of 2010''.

SEC. 4102. DEFINITIONS.

In this title:

(1) DAMAGES.—The term ''damages'' includes, when used in connection with compensation—

(A) compensation for—

(i)(I) the cost of replacing, restoring, rehabilitating, or acquiring the equivalent of a refuge system resource; and

(II) the value of any significant loss of use of a refuge system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(ii) the value of the refuge system resource if the resource cannot be replaced or restored; and

(B) the cost of damage assessments under this section.

(2) FISH AND WILDLIFE SERVICE SYSTEM RESOURCE.—

(A) IN GENERAL.—The term ''Fish and Wildlife Service system resource'' means any living or nonliving resource that is located within the boundaries of a unit of—

(i) the National Wildlife Refuge System;

(ii) the National Fish Hatchery System; or

(iii) other land managed by the United States Fish and Wildlife Service.

(B) EXCLUSION.—The term ''Fish and Wildlife Service system resource'' does not include a resource owned by a non-Federal entity.

(3) MARINE OR AQUATIC REFUGE SYSTEM RESOURCE.—

(A) IN GENERAL.—The term ''marine or aquatic refuge system resource'' means any living or nonliving part of a marine or aquatic regimen that is located within the boundaries of a unit of—

(i) the National Wildlife Refuge System; or

(ii) the National Fish Hatchery System.

(B) EXCLUSION.—The term ''marine or aquatic refuge system resource'' does not include a resource owned by a non-Federal entity.

(4) REFUGE SYSTEM RESOURCE.—The term ''refuge system resource'' means—

(A) a Fish and Wildlife Service system resource; and

(B) a marine or aquatic refuge system resource.

(5) REGIMEN.—The term ''regimen'' means a water column and submerged land, up to the high-tide or high-water line.

(6) RESPONSE COSTS.—The term ''response costs'' means the costs of actions taken by the Secretary—

(A) to prevent or minimize destruction or loss of or injury to refuge system resources;

(B) to abate or minimize the imminent risk of such destruction, loss, or injury; or

(C) to monitor ongoing effects of incidents causing such destruction, loss, or injury.

SEC. 4103. LIABILITY.

(a) IN GENERAL.—Subject to subsection (c), any person that destroys, damages, causes the loss of, or injures any refuge system resource is liable to the United States for response costs and damages resulting from the destruction, loss, or injury.

(b) LIABILITY IN REM.—Any instrumentality (including a vessel, vehicle, aircraft, or other equipment) that destroys, causes the loss of, or injures any refuge system resource shall be liable in rem to the United States for response costs and damages resulting from the destruction, loss, or injury to the same extent as a person is liable under subsection (a).

(c) DEFENSES.—A person shall not be liable under this section if the person establishes that—

(1) the destruction, loss of, or injury to the refuge system resource was caused solely by an act of God or act of war, if the person exercised due care to employ safety precautions and best management practices to minimize potential destruction, loss, or injury in advance of an act of God or act of war;

(2) the person acted with due care, and the destruction, loss of, or injury to the refuge system resource was caused solely by an act or omission of a third party, other than an employee or agent of the person; or

(3) the destruction, loss, or injury to the refuge system resource was caused by an activity authorized by Federal or State law, if the activity was conducted in accordance with Federal and State law.

(d) SCOPE.—Liability under this section shall be in addition to any other liability that may arise under Federal or State law.

SEC. 4104. ACTIONS.

(a) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—

(1) IN GENERAL.—If the Secretary makes a finding of damage to a refuge system resource or makes a finding that, absent response costs, damage to a refuge system resource will occur and the Secretary requests the Attorney General to initiate action, the Attorney General may commence a civil action in the United States district court for the appropriate district against any person that may be liable under section 4103 for response costs and damages.

(2) REQUESTS FOR ACTION.—The Secretary shall submit a request for an action described in paragraph (1) to the Attorney General if a person may be liable or an instrumentality may be liable in rem for response costs and damages under section 4103.

(b) RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.—

(1) IN GENERAL.—The Secretary shall take all necessary actions—

(A) to prevent or minimize the destruction, loss of, or injury to a refuge system resource; or

(B) to minimize the imminent risk of such destruction, loss, or injury.

(2) MONITORING.—The Secretary shall assess and monitor damages to refuge system resources.

SEC. 4105. USE OF RECOVERED AMOUNTS.

(a) IN GENERAL.—Subject to subsections (b) and (c), response costs and damages recovered by the Secretary under this title or amounts recovered by the Federal Government under any Federal, State, or local law (including regulations) or otherwise as a result of damage to any living or nonliving resource located within a unit managed by the United States Fish and Wildlife Service (other than resources owned by a non-Federal entity) shall be available to the Secretary, without further appropriation—

(1) to reimburse response costs and damage assessments incurred by the Secretary or other Federal agencies as the Secretary considers appropriate; or

(2) to restore, replace, or acquire the equivalent of resources that were the subject of an action and to monitor and study the resources.

(b) ACQUISITION.—No funds may be used under subsection (a) to acquire any land, water, or interest or right in land or water unless the acquisition is—

(1) specifically approved in advance in an appropriations Act; and

(2) consistent with any limitations contained in the organic law authorizing the refuge unit.

(c) EXCESS FUNDS.—Any amounts remaining after expenditures pursuant to subsection (a) shall be deposited into the general fund of the Treasury.

SEC. 4106. DONATIONS.

(a) IN GENERAL.—The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs.

(b) AVAILABILITY.—The donations may be expended or employed at any time after the acceptance of the donation, without further appropriation.

TITLE XLII—GULF COAST ECOSYSTEM RESTORATION

SEC. 4201. GULF COAST ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section:

(1) COMPREHENSIVE PLAN.—The term ''comprehensive plan'' means the comprehensive plan required by subsection (c).

(2) GOVERNORS.—The term ''Governors'' means the Governors of each of the States of Alabama, Florida, Louisiana, and Mississippi.

(3) GULF COAST ECOSYSTEM.—The term ''Gulf Coast ecosystem'' means the coastal zones (as determined pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)) of the States of Alabama, Florida, Louisiana, and Mississippi and adjacent State waters and areas of the outer Continental Shelf, adversely impacted by the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) TASK FORCE.—The term ''Task Force'' means the Gulf Coast Ecosystem Restoration Task Force established by subsection (g).

(b) GULF COAST ECOSYSTEM RESTORATION.—

(1) IN GENERAL.—The Chair of the Task Force shall undertake restoration activities in the Gulf Coast ecosystem in accordance with this section.

(2) FUNDING.—Subject to appropriations, of amounts in the Oil Spill Liability Trust Fund, there shall be available to the Chair of the Task Force to carry out this section $2,500,000,000 for the period of fiscal years 2012 through 2021.

(3) AUTHORIZED USES.—Amounts under paragraph (2) shall be available to the Chair of the Task Force for the conservation, protection, and restoration of the Gulf Coast ecosystem in accordance with the comprehensive plan.

(c) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and after notice and opportunity for public comment, the Chair of the Task Force shall develop a proposed comprehensive plan for the purpose of long-term conservation, protection, and restoration of biological integrity, productivity, and ecosystem functions in the Gulf Coast ecosystem.

(2) EXISTING PLANS.—The Chair of the Task Force shall incorporate, to the maximum extent practicable, any applicable plans developed by local, State and Federal agencies for the restoration of coastal wetland and other areas of the Gulf Coast ecosystem.

(d) CRITICAL AND EMERGENCY RESTORATION PROJECTS AND ACTIVITIES.—If the Chair of the Task Force, in cooperation with the Governors, determines that a restoration project or activity will produce independent, immediate, and substantial conservation, protection, or restoration benefits, and will be consistent with overall restoration goals, the Chair of the Task Force shall proceed expeditiously with the implementation of the project or activity in accordance with laws (including regulations) in existence on the date of enactment of this Act.

(e) PRIORITY PROJECTS.—

(1) LIST.—

(A) IN GENERAL.—The comprehensive plan shall include a list of specific projects to be funded and carried out during the subsequent 3-year period.

(B) PREREQUISITES.—Each project listed in the comprehensive plan shall be—

(i) consistent with the strategies identified in the comprehensive plan; and

(ii) cost-effective.

(C) UPDATES.—The Task Force shall update annually the list of projects in the comprehensive plan.

(2) SELECTION.—The Task Force shall select projects and activities to carry out under this section—

(A) based on the best available science;

(B) without regard to geographic location; and

(C) with the highest priority to projects and activities that will achieve the greatest contribution in restoring—

(i) the ability of Gulf Coast ecosystems to become self-sustaining;

(ii) biological productivity; and

(iii) ecosystem function in the Gulf of Mexico.

(f) COST SHARING.—The Federal share of projects and activities conducted under this section shall not exceed 65 percent, as determined by the Task Force.

(g) GULF COAST ECOSYSTEM RESTORATION TASK FORCE.—

(1) IN GENERAL.—There is established the Gulf Coast Ecosystem Restoration Task Force.

(2) MEMBERSHIP.—The Task Force shall consist of the following members or, in the case of a Federal agency, a designee at the level of Assistant Secretary or the equivalent:

(A) The Secretary of the Interior.

(B) The Secretary of Commerce.

(C) The Secretary of the Army.

(D) The Attorney General.

(E) The Secretary of Homeland Security.

(F) The Administrator of the Environmental Protection Agency.

(G) The Commandant of the Coast Guard.

(H) The Secretary of Transportation.

(I) The Secretary of Agriculture.

(J) A representative of each affected Indian tribe, appointed by the Secretary based on the recommendations of the tribal chairman.

(K) 2 representatives of each of the States of Alabama, Florida, Louisiana, and Mississippi, appointed by the Governor of each State, respectively.

(L) 2 representatives of local government within each of the States of Alabama, Florida, Louisiana, and Mississippi, appointed by the Governor of each State, respectively.

(3) CHAIR.—The chair of the Task Force shall be a Federal official appointed by the President.

(4) DUTIES.—The Task Force shall—

(A) consult with, and provide recommendations to, the Chair of the Task Force during development of the comprehensive plan;

(B) coordinate the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for addressing the restoration of the Gulf Coast ecosystem;

(C) establish a Gulf Coast-based working group composed of representatives of members of the Task Force and other local agencies and representatives as appropriate for purposes of recommending, coordinating, and implementing policies, programs, activities, and projects to accomplish Gulf Coast ecosystem restoration;

(D) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem;

(E) prepare an integrated financial plan and coordinated budget requests for the funds proposed to be expended by the agencies represented on the Task Force; and

(F) submit an annual report to Congress that summarizes the activities of the Task Force and the policies, plans, activities, and projects for restoration of the Gulf Coast ecosystem.

(5) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Task Force and the working group established under paragraph (4)(C) shall not be considered to be advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

(h) RELATIONSHIP TO OTHER LAW AND AUTHORITY.—Nothing in this section preempts or otherwise affects any Federal law or limits the authority of any Federal agency.

TITLE XLIII—HYDRAULIC FRACTURING CHEMICALS

SEC. 4301. DISCLOSURE OF HYDRAULIC FRACTURING CHEMICALS.

(a) DISCLOSURE.—Title III of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11041 et seq.) is amended by adding at the end the following:

"SEC. 331. DISCLOSURE OF HYDRAULIC FRACTURING CHEMICALS.

''(a) IN GENERAL.—

''(1) STATE AUTHORITY.—A State that permits oil and natural gas drilling—

''(A) may require any person using hydraulic fracturing for an oil or natural gas well in the State to disclose to the State, not later than 30 days after completion of drilling the well, the list of chemicals used in each hydraulic fracturing process (identified by well location and number), including the chemical constituents of mixtures, Chemical Abstracts Service registry numbers, and material safety data sheets; and

''(B) shall make any such disclosure available to the public, including a posting of the information online.

''(2) DISCLOSURE IF NO STATE IMPLEMENTATION.—If a State that permits oil and natural gas drilling does not require and make available disclosures in accordance with paragraph (1) by December 31, 2011, or ceases to require and make available disclosures in accordance with paragraph (1) after that date, the operator of the oil or natural gas well in the State shall make available to the public online, not later than 30 days after completion of drilling the well, the list of chemicals used in each hydraulic fracturing process (identified by well location and number), including the chemical constituents of mixtures, Chemical Abstracts Service registry numbers, and material safety data sheets.

''(b) PROPRIETARY CHEMICAL FORMULAS; MEDICAL EMERGENCIES.—

''(1) IN GENERAL.—Except as provided in this subsection, this section does not require the disclosure of proprietary chemical formulas used in hydraulic fracturing.

''(2) DISCLOSURE IN MEDICAL EMERGENCIES.—

''(A) IN GENERAL.—If the State or the Administrator, or a treating physician or nurse, determines that a medical emergency exists and the proprietary chemical formulas, or the identity, of 1 or more chemical constituents used in hydraulic fracturing is necessary for medical treatment, the person using hydraulic fracturing shall immediately disclose the proprietary chemical formulas or the identity of the chemical constituents to the State, the Administrator, or that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement.

''(B) STATEMENT OF NEED.—The person using hydraulic fracturing may require a written statement of need and a confidentiality agreement as soon thereafter as circumstances permit.

''(c) THRESHOLDS INAPPLICABLE.—Threshold limitations under this Act shall not apply to disclosures made under this section.''.

(b) ENFORCEMENT.—Section 325(c)(2) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11045(c)(2)) is amended by striking ''section 311 or 323(b)'' and inserting ''section 311, 323(b), 331(a)(2), or 331(b)''.

TITLE XLIV—WATERSHED RESTORATION

SEC. 4401. WATERSHED RESTORATION.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a program of watershed restoration and job stabilization for the purposes of—

(1) performing landscape scale restoration, reducing hazardous fuels, increasing employment, and maintaining infrastructure in timber communities; or

(2) making biomass available for sustainable economic development.

(b) ELIGIBLE PROJECTS.—The program conducted under this section may include projects and activities for—

(1) preparing and implementing riparian corridor improvements;

(2) fish and wildlife habitat improvements;

(3) invasive species eradications;

(4) nonsystem road decommissioning;

(5) appropriate road density achievement;

(6) forest health improvements; and

(7) sustainable timber harvest and fuels treatments, specifically for reducing the potential effects that fires pose to water quality and communities.

(c) FUNDING.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture $75,000,000, to remain available until expended, for use in carrying out this section.

(d) TERMINATION OF PROGRAM.—The program conducted under this section shall terminate on the date that is 10 years after the date of enactment of this Act.

(e) NO EFFECT ON COMPLIANCE WITH LAWS.—Nothing in this section affects or limits the application of, or obligation to comply with, any law, including any public health or environmental law.

DIVISION E—FISCAL RESPONSIBILITY

SEC. 5001. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.

(a) EXTENSION OF APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4611(f) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2017'' and inserting ''December 31, 2020''.

(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) the Oil Spill Liability Trust Fund financing rate is 45 cents a barrel.''.

(c) INCREASE IN PER INCIDENT LIMITATIONS ON EXPENDITURES.—Subparagraph (A) of section 9509(c)(2) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1,000,000,000'' in clause (i) and inserting ''$5,000,000,000'';

(2) by striking ''$500,000,000'' in clause (ii) and inserting ''$2,500,000,000''; and

(3) by striking ''$1,000,000,000 PER INCIDENT, ETC'' in the heading and inserting ''PER INCIDENT LIMITATIONS''.

(d) EFFECTIVE DATE.—

(1) EXTENSION OF FINANCING RATE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASE IN FINANCING RATE.—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

DIVISION F—MISCELLANEOUS

SEC. 6001. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

By Mrs. FEINSTEIN (for herself, Mr. CRAPO, Mr. UDALL of Colorado, Mr. BENNET, and Mrs. BOXER):

S. 3664. A bill to amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today on behalf of myself and Senators CRAPO, UDALL of Colorado, BENNET of Colorado, and BOXER, to introduce legislation that will help preserve the great tradition of the American family farm.

Our legislation is called the Family Farm Estate Tax Deferral Act.

It is designed to prevent the unintended consequences of the estate tax's disproportionate impact on family farms, by providing relief to families who want to continue their family farming and ranching operations.

This is especially important in California, where high unemployment has devastated many of our state's agricultural communities.

Specifically, this legislation would allow qualifying family operated farms and ranches to defer estate taxes if the farm-related income of the decedent in the three years prior to death does not exceed $750,000 annually, and the non-farm related income does not exceed $500,000 per year; the farm is passed down to a family member who has been materially engaged in its management and operations for at least 5 years; the farm generated more than 50 percent of the farm owner's income, or comprised more than 50 percent of the farm owner's estate at the time of death; the farm was owned by the decedent for at least 5 years and is located within the United States.

The family member inheriting the estate continues to use the land for farming purposes; and, at the time of his or her death, the decedent associated with the estate was a U.S. citizen or legal resident of the United States.

The bill also includes a ''recapture'' provision, to ensure that farm heirs are subject to strict oversight and must pay taxes if at any time they sell the land or cease to use the property for farming.

The bill would also encourage the preservation of land and protect millions of acres of open space and wildlife habitat. It does so by incorporating legislation introduced in the House by Representative EARL BLUMENAUER to increase the limitation on the estate tax exclusion for conservation easements to $5 million, up from $500,000.

Farm and ranch estates are estimated to be up to 20 times more likely to face an estate tax burden than other estates.

Roughly one in 10 family farms and ranches confronted estate tax bills last year, according to data from the U.S. Department of Agriculture Economic Research Service.

Let me explain why this is cause for concern, and why our legislation is so important.

Most of the financial value of a family farm or ranch operation lies in its land. Assets such as specialized equipment and production tools have limited resale value and are not likely to quickly generate sufficient liquidity.

It is land—not securities or other more-liquid assets—that comprises the lion's share of many farmers' assets. So, many farmers are quite literally land rich, and cash poor.

The property value of fertile farmland can appreciate greatly over time.

For example, in 1997 the average farm real estate value was $926 per acre; today it is $2160 per acre, according to the Land Trust Alliance. This represents a 133 percent increase in the value of farmland in just over a decade.

As this farmland appreciates, the potential estate tax bill grows.

When a farm estate is passed on to an heir, portions of the land are sometimes fragmented, or even sold to developers in order to manage the tax consequences.

The result is that some farms are rendered inoperable, and heirs face difficult choices in these tough economic times.

Let me share the story of a constituent, Hannah Tangeman-Cheney, whose story illustrates the problem.

Hannah's ranch in Susanville, California, has been owned by her family since 1862, and run by women since 1914.

After her mother passed away, Hannah had to deal with the IRS, attorneys, and appraisers, during this difficult period in her life. Her mother had a will and a trust, but there was still a significant tax burden that Hannah and her sister had to deal with.

It took 2 years for Hannah and the IRS to reach agreement on the value of her ranch since their appraisers came up with different numbers.

Eventually, she reached agreement with the IRS to pay the taxes off over a ten-year period.

Facing these difficult circumstances, Hannah and her sister made the painful decision to harvest thousands of trees.

In all, 13,157 trees were cut—far more than they would have ever dreamed of harvesting under any other circumstances.

Some of the trees took more than 100 years to grow, and the property had not been harvested since the 1950's.

Eventually, she was able to pay off the taxes, but this was a very emotional experience for Hannah and her sister.

They are both environmentally conscious, and their ranch was even certified as part of the ''Green Building'' program with the Forest Stewardship Council.

Our legislation is designed to prevent these unintended consequences, and provide relief to families wishing to keep their farms in operation.

By mandating a $750,000 cap on income in order to qualify, we can ensure that this relief goes to those farmers who need it most, not to major agribusinesses.

To be clear, many Americans have suffered tremendously during this very difficult economic downturn.

But, some agricultural communities have been hit especially hard.

Family farms in many of California's most productive agricultural areas are currently struggling just to make ends meet.

I come from the largest agricultural state in the country.

California has suffered a crippling three-year drought, and many growers have had to fallow their fields to cut their losses.

Many have had to lay off employees, and some have left the business entirely.

These hardships can be seen, and I have witnessed them firsthand, in Fresno County where the unemployment rate is 16 percent.

In Kings County unemployment is 15.9 percent. Tulare County unemployment is 15.8 percent.

Imperial County is suffering under unemployment which has reached 27.6

percent. Within these counties, unemployment in some agricultural communities has touched 40 percent.

Farms and ranches are an important source of jobs in these communities.

This legislation aims to protect family farms that intend to hire, while providing more certainty to thousands of workers across the State.

In 2006, I warned that difficult decisions would be required before the estate tax expired in 2010.

Well, 2010 is here and the picture of our nation's fiscal health is not a pretty one.

We are facing a record $1.3 trillion budget deficit.

The national debt has reached a new high at roughly $13 trillion.

The parameters of the estate tax debate have shifted for most, by necessity.

Full estate tax repeal is out of the question, and our number one priority for allocating federal resources has rightly been shifted to job creation and economic recovery.

But, absent Congressional action, the estate tax will return with ferocity next year at a 55 percent rate with an exemption level of $1 million.

I don't think this is something that many in this body would like to see.

So, any estate tax reform must be well-targeted and balanced to ensure it is fiscally responsible.

As we work to develop comprehensive, permanent, and fiscally-responsible estate tax reform this year, I urge my colleagues to remember that the estate tax was never intended to prevent family farms from being passed from generation to generation.

Our legislation resolves this issue for once and for all, and by safeguarding against loopholes for rich farming conglomerates and agribusinesses, it does so at minimal cost.

Moreover, we take steps forward to protect our precious environment and preserve open space and agricultural lands.

There is no doubt that many family farmers are under financial pressure during these difficult times.

We must take steps to bring relief to the very family farmers and ranchers who have devoted their lives to helping feed and sustain this great nation.

This legislation is a fiscally responsible and targeted effort to ensure that we preserve this tradition for legitimate working farms.

Estate tax reform must be addressed soon, and this issue can no longer be delayed.

I urge my colleagues to support this effort and to enact this legislation as quickly as possible.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 596—TO DESIGNATE SEPTEMBER 25, 2010, AS ''NATIONAL ESTUARIES DAY''

Mr. WHITEHOUSE (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. CASEY, Mr. REED, Mrs. MURRAY, Mr. KERRY, Mr. WYDEN, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. WARNER, Mr. MERKLEY, Mr. MENENDEZ, Ms. LANDRIEU, Mr. SCHUMER, Mr. NELSON of Florida, Mr. KAUFMAN, Ms. COLLINS, Mr. GREGG, Mr. WEBB, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 596

Whereas the estuary regions of the United States comprise a significant share of the national economy, with 43 percent of the population, 40 percent of the employment, and 49 percent of the economic output of the United States located in the estuary regions of the United States;

Whereas coasts and estuaries contribute more than $800,000,000,000 annually in trade and commerce to the United States economy;

Whereas more than 43 percent of all adults in the United States visit a sea coast or estuary at least once a year to participate in some form of recreation, generating $8,000,000,000 to $12,000,000,000 in revenue annually;

Whereas more than 28,000,000 jobs in the United States are supported by commercial and recreational fishing, boating, tourism, and other coastal industries that rely on healthy estuaries;

Whereas estuaries provide vital habitat for countless species of fish and wildlife, including many that are listed as threatened or endangered;

Whereas estuaries provide critical ecosystem services that protect human health and public safety, including water filtration, flood control, shoreline stabilization and erosion prevention, and the protection of coastal communities during extreme weather events;

Whereas 55,000,000 acres of estuarine habitat have been destroyed during the 100 years preceding the date of agreement to this resolution;

Whereas bays once filled with fish and oysters have become dead zones filled with excess nutrients, chemical wastes, harmful algae, and marine debris;

Whereas sea level rise is accelerating the degradation of estuaries by—

(1) submerging low-lying land;

(2) eroding beaches;

(3) converting wetland to open water;

(4) exacerbating coastal flooding; and

(5) increasing the salinity of estuaries and freshwater aquifers;

Whereas the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) declares that it is the national policy to preserve, protect, develop, and if possible, to restore or enhance, the resources of the coastal zone of the United States, including estuaries, for current and future generations;

Whereas scientific study leads to better understanding of the benefits of estuaries to human and ecological communities;

Whereas Federal, State, local, and tribal governments, national and community organizations, and individuals work together to effectively manage the estuaries of the United States;

Whereas estuary restoration efforts restore natural infrastructure in local communities in a cost effective manner, helping to create jobs and reestablish the natural functions of estuaries that yield countless benefits; and

Whereas September 25, 2010, has been designated as ''National Estuaries Day'' to increase awareness among all people of the United States, including Federal, State and local government officials, about the importance of healthy estuaries and the need to protect and restore estuaries: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 25, 2010, as ''National Estuaries Day'';

(2) supports the goals and ideals of National Estuaries Day;

(3) acknowledges the importance of estuaries to the economic well-being and productivity of the United States;

(4) recognizes that persistent threats undermine the health of the estuaries of the United States;

(5) applauds the work of national and community organizations and public partners that promote public awareness, understanding, protection, and restoration of estuaries;

(6) reaffirms the support of the Senate for estuaries, including the scientific study, preservation, protection, and restoration of estuaries; and

(7) expresses the intent of the Senate to continue working to understand, protect, and restore the estuaries of the United States.

SENATE RESOLUTION 597—DESIGNATING SEPTEMBER 2010 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. BAYH, Mr. BENNETT, Mrs. BOXER, Mr. BURR, Mr. BURRIS, Mr. CARDIN, Mr. CASEY, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CRAPO, Mr. DODD, Mr. DORGAN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INHOFE, Mr. JOHNSON, Mr. JOHANNS, Mr. KERRY, Ms. LANDRIEU, Mr. LUGAR, Mr. SCHUMER, Mr. SHELBY, Mr. SPECTER, Mr. TESTER, and Mr. VITTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 597

Whereas countless families in the United States live with prostate cancer;

Whereas 1 in 6 males in the United States will be diagnosed with prostate cancer in his lifetime;

Whereas prostate cancer is the most commonly diagnosed non-skin cancer and the second most common cause of cancer-related deaths among males in the United States;

Whereas in 2010, 217,730 males in the United States will be diagnosed with prostate cancer, and 32,050 males will die from the disease;

Whereas 30 percent of newly diagnosed prostate cancer cases occur in males under the age of 65;

Whereas approximately every 14 seconds, a male in the United States turns 50 years old and increases his odds of developing cancer, including prostate cancer;

Whereas African-American males suffer from a prostate cancer incidence rate that is up to 65 percent higher than White males and have double the prostate cancer mortality rate of White males;

Whereas obesity is a significant predictor of the severity of prostate cancer;

Whereas the probability that obesity will lead to death and high cholesterol levels is strongly associated with advanced prostate cancer;

Whereas males in the United States with 1 family member diagnosed with prostate cancer have a 1 in 3 chance of being diagnosed with the disease; males with 2 family members diagnosed have an 83 percent chance; and males with 3 family members diagnosed have a 97 percent chance;

Whereas screening by a digital rectal examination and a prostate-specific antigen blood test can detect the disease at the early stages, increasing the chances of survival for more than 5 years to nearly 100 percent;

Whereas only 33 percent of males survive more than 5 years if diagnosed during the late stages of the disease;

Whereas there are no noticeable symptoms of prostate cancer while it is still in the early stages, making screening critical;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatment; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of males and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2010 as ''National Prostate Cancer Awareness Month'';

(2) declares that steps should be taken—

(A) to raise awareness about the importance of screening methods for, and treatment of, prostate cancer;

(B) to increase research funding that is commensurate with the burden of prostate cancer so that—

(i) screening and treatment may be improved;

(ii) the causes may be discovered; and

(iii) a cure may be developed; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons—

(A) to promote awareness of prostate cancer;

(B) to take an active role in the fight to end the devastating effects of prostate cancer on individuals, families, and the economy; and

(C) to observe National Prostate Cancer Awareness Month with appropriate ceremonies and activities.

SENATE RESOLUTION 598—DESIGNATING SEPTEMBER 2010 AS ''NATIONAL CHILD AWARENESS MONTH'' TO PROMOTE AWARENESS OF CHARITIES BENEFITTING CHILDREN AND YOUTH-SERVING ORGANIZATIONS THROUGHOUT THE UNITED STATES AND RECOGNIZING EFFORTS MADE BY THESE CHARITIES AND ORGANIZATIONS ON BEHALF OF CHILDREN AND YOUTH AS CRITICAL CONTRIBUTIONS TO THE FUTURE OF THE NATION

Mr. BURR (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 598

Whereas millions of children and youth in the United States represent the hopes and future of the United States;

Whereas numerous individuals, charities benefitting children, and youth-serving organizations that work with children and youth collaborate to provide invaluable services to enrich and better the lives of children and youth throughout the United States;

Whereas raising awareness of and increasing support for organizations that provide access to healthcare, social services, education, the arts, sports, and other services will result in the development of character and the future success of the children and youth of the Nation;

Whereas September, as the school year begins, is a time when parents, families, teachers, school administrators, and communities increase their focus on children and youth throughout the United States;

Whereas September is a time for the people of the United States to highlight and be mindful of the needs of children and youth;

Whereas private corporations and businesses have joined with hundreds of national and local charitable organizations throughout the United States in support of a month-long focus on children and youth; and

Whereas designating September 2010 as ''National Child Awareness Month'' would recognize that a long-term commitment to children and youth is in the public interest, and will encourage widespread support for charities and organizations that seek to provide a better future for the children and youth of the United States: Now, therefore, be it

Resolved, That the Senate designates September 2010 as ''National Child Awareness Month''—

(1) to promote awareness of charities benefitting children and youth-serving organizations throughout the United States; and

(2) to recognize efforts made by such charities and organizations on behalf of children and youth as critical contributions to the future of the Nation.

SENATE RESOLUTION 599—DESIGNATING AUGUST 16, 2010, AS ''NATIONAL AIRBORNE DAY''

Ms. MURKOWSKI (for herself, Mr. REED, Mr. REID, Mrs. HAGAN, Mr. BURR, Mrs. LINCOLN, Mr. VOINOVICH, Mr. INHOFE, Mr. CRAPO, Ms. SNOWE, Mr. BACUS, Mr. ISAKSON, Mr. BEGICH, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Mr. THUNE, Mr. AKAKA, Mr. BURRIS, Mr. SESSIONS, Mr. ROBERTS, Mr. WHITEHOUSE, Mr. BOND, Mr. BENNETT, Ms. LANDRIEU, Mr. CHAMBLISS, Mr. INOUYE, and Mr. CORKER) submitted the following resolution; which was considered and agreed to:

S. RES. 599

Whereas the airborne forces of the Armed Forces have a long and honorable history as units of bold and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas the United States experiment with airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the Department of War and was launched when 48 volunteers began training in July 1940;

Whereas August 16 marks the anniversary of the first official Army parachute jump on August 16, 1940, to test the innovative concept of inserting United States ground combat forces behind a battle line by means of parachute;

Whereas the success of the Army Parachute Test Platoon in the days immediately before the entry of the United States into World War II led to the formation of a formidable force of airborne units that have served with distinction and have had repeated success in armed hostilities;

Whereas among those first airborne units are the former 11th, 13th, and 17th Airborne Divisions, the current 82nd and 101st Airborne Divisions, and the later airborne regiments and battalions (some as components of those divisions and some as separate units) that achieved distinction as the 75th Ranger Regiment, the 173rd Airborne Brigade Combat Team, the 187th Infantry (Airborne) Regiment, which is the only airborne unit to have served as a Glider, Parachute, and Air Assault Regiment, the 501st, 502nd, 503rd, 504th, 505th, 506th, 507th, 508th, 509th, 511th, 513th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th, 127th, 193rd, 194th, 325th, 326th, 327th, and 401st Glider Infantry Regiments, the 509th, 550th, 551st, and 555th Parachute Infantry Battalions, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II prompted the evolution of those forces into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas since the terrorist attacks on September 11, 2001, United States paratroopers, which include members of the XVIII Airborne Corps, the 82nd Airborne Division, the 101st Airborne Division (Air Assault), the 173rd Airborne Brigade Combat Team, the 4th Brigade (Airborne) of the 25th Infantry Division, the 75th Ranger Regiment, and special forces units, together with other units of the Armed Forces, have demonstrated bravery and honor in combat operations, civil affairs missions, and training operations in Afghanistan and Iraq;

Whereas the modern day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance units, Navy SEALs, Air Force combat control teams, pararescue, and weather teams, all of which are part of the United States Special Operations Command;

Whereas of the members and former members of the United States airborne forces, thousands have achieved the distinction of making combat jumps, dozens have earned the Medal of Honor, and hundreds have earned the Distinguished Service Cross, the Silver Star Medal, or other decorations and awards for displays heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States airborne forces are all members of a proud and honorable tradition that, together with their special skills and achievements, distinguishes them as intrepid combat parachutists, air assault forces, special operation forces, and, in former days, glider troops;

Whereas the history and achievements of the members and former members of the United States airborne forces warrant special expressions of the gratitude of the people of the United States; and

Whereas, since the airborne community celebrates August 16 as the anniversary of the first official jump by the Army Parachute Test Platoon, August 16 would be an appropriate day to recognize as National Airborne Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2010, as ''National Airborne Day''; and

(2) calls on the people of the United States to observe National Airborne Day with appropriate programs, ceremonies, and activities.

SENATE RESOLUTION 600—TO AUTHORIZE DOCUMENT PRODUCTION AND TESTIMONY BY, AND REPRESENTATION OF, THE SELECT COMMITTEE ON INTELLIGENCE

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 600

Whereas, the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with documents in connection with a pending investigation into the unauthorized disclosure of classified national security information;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent former or current employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the United States Department of Justice, under appropriate security procedures, copies of Committee documents sought in connection with a pending investigation into the unauthorized disclosure of classified national security information, and former and current employees of the Committee are authorized to testify in proceedings arising out of that investigation, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent the Select Committee on Intelligence, and any former or current employee of the Committee from whom testimony may be required, in connection with the testimony and document production authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 69—RECOGNIZING THE 500TH ANNIVERSARY OF THE BIRTH OF ITALIAN ARCHITECT ANDREA PALLADIO

Mr. ENZI submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 69

Whereas 2008 was the 500th anniversary of the birth year of the Italian architect Andrea Palladio;

Whereas Andrea Palladio was born Andrea di Pietro in Padua on November 30, 1508;

Whereas Palladio, born of humble origins, apprenticed as a stonemason in his early life;

Whereas under the patronage of Count Giangiorgio Trissino (1478–1550), Palladio studied architecture, engineering, topography, and military science in his mid-twenties;

Whereas in 1540, Count Trissino renamed him ''Palladio'', a reference to the wisdom of Pallas Athena, as well as the Italian form of the name of the Roman writer of the fourth century, Rutilius Taurus Aemilianus Palladius;

Whereas Palladio's designs for public works, churches, mansions, and villas rank among the most outstanding architectural achievements of the Italian Renaissance;

Whereas Palladio's surviving buildings are collectively included in the UNESCO World Heritage List;

Whereas Palladio's treatise, ''The Four Books of Architecture'', ranks as the most influential publication on architecture ever produced and has shaped much of the architectural image of Western civilization;

Whereas ''The Four Books of Architecture'' has served as a primary source for classical design for many architects and builders in the United States from colonial times to the present;

Whereas Thomas Jefferson called Palladio's ''The Four Books of Architecture'' the ''Bible'' for architectural practice, and employed Palladio's principles in establishing lasting standards for public architecture in the United States and in constructing his own masterpiece, Monticello;

Whereas our Nation's most iconic buildings, including the United States Capitol Building and the White House, reflect the influence of Palladio's architecture through the Anglo-Palladian movement, which flourished in the 18th century;

Whereas Palladio's pioneering reconstruction and restoration drawings of ancient Roman temples in ''The Four Books of Architecture'' provided inspiration for many of the great American classical edifices of the 19th and 20th centuries, in the period known as the American Renaissance;

Whereas the American Renaissance marked the high point of the classical tradition and enriched the United States from coast to coast with countless architectural works of timeless dignity and beauty, including the John A. Wilson Building, the seat of government of the District of Columbia;

Whereas the American architectural monuments inspired both directly and indirectly by the writings, illustrations, and designs of Palladio form a proud and priceless part of our Nation's cultural heritage;

Whereas a special exhibition, ''Palladio and His Legacy: A Transatlantic Journey'', featuring 31 original Palladio drawings, organized by the Royal Institute of British Architects Trust in association with the Centro Internazionale di Studi di Architettura Andrea Palladio, demonstrates how Palladio's work has significantly influenced American architecture from colonial times to the present and will travel to The Morgan Library & Museum, the National Building Museum, the Milwaukee Art Museum, and The Heinz Architectural Center, Carnegie Museum of Art during the years 2010 and 2011; and

Whereas other organizations, educational institutions, museums, governmental agencies and many other entities have continued to celebrate the 500th anniversary of the birth of Palladio, beyond the year 2008, including the Italian National Committee for Andrea Palladio 500, the Istituto Italiano di Cultura, the Institute of Classical Architecture & Classical America, the Center for Palladian Studies in America, Inc. and the Palladium Musicum, Inc., as well as Italian American cultural organizations, such as the Italian Heritage and Culture Committee of New York, Inc., with a wide variety of public programs, museum exhibits, publications, symposia, proclamation ceremonies and salutes to the genius and legacy of Palladio. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 500th anniversary of Andrea Palladio's birth year;

(2) recognizes his tremendous influence on architecture in the United States; and

(3) expresses its gratitude for the enhancement his life and career has bestowed upon the Nation's built environment.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4532. Mr. CORNYN (for himself, Mrs. MCCASKILL, Mr. BOND, Mrs. HUTCHISON, Ms. LANDRIEU, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4533. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4534. Mr. UDALL of Colorado (for himself, Ms. COLLINS, Mr. REID, Mr. SCHUMER, Mr. LIEBERMAN, Mrs. BOXER, Mrs. GILLIBRAND, Mr. SANDERS, Mr. INOUYE, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4535. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4536. Mr. BENNET (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4537. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4538. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4539. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4540. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4541. Mr. DODD (for himself, Mr. COCHRAN, Ms. MIKULSKI, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4542. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4543. Mr. WEBB (for himself, Ms. LANDRIEU, Mr. NELSON of Florida, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4544. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4545. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4546. Mrs. LINCOLN (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4547. Mrs. LINCOLN (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4548. Mrs. LINCOLN (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4549. Mrs. LINCOLN (for herself and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4550. Mr. WHITEHOUSE (for himself, Mr. BENNET, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. CORKER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. KAUFMAN, Mr. LEAHY, Mr. LEMIEUX, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. NELSON of Florida, Mr. PRYOR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4551. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4552. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4553. Mrs. LINCOLN (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4554. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4555. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4556. Mr. ROCKEFELLER (for himself and Mr. GOODWIN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4557. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4558. Mrs. HUTCHISON (for herself, Mr. GRAHAM, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4559. Mr. HATCH (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4560. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4561. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4532. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF EXPENDITURE DEADLINE OF SOCIAL SERVICES BLOCK GRANT DISASTER FUNDING.

Notwithstanding any other provision of law, amounts made available to the Department of Health and Human Services, Administration for Children and Families, under the heading ''Social Services Block Grant'' under chapter 7 of division B of Public Law 110–329, shall remain available for expenditure through September 30, 2012.

SA 4533. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

In section 4261 (relating to emergency agricultural disaster assistance), strike subsection (h).

SA 4534. Mr. UDALL of Colorado (for himself, Ms. COLLINS, Mr. REID, Mr. SCHUMER, Mr. LIEBERMAN, Mrs. BOXER, Mrs. GILLIBRAND, Mr. SANDERS, Mr. INOUYE, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 25, add the following:

SEC. 1137. LIMITS ON MEMBER BUSINESS LOANS.

(a) IN GENERAL.—

(1) REVISED LIMITATION AND CRITERIA.—Effective 6 months after the date of enactment of this Act, section 107A(a) of the Federal Credit Union Act (12 U.S.C. 1757a(a)) is amended to read as follows:

''(a) LIMITATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an insured credit union may not make any member business loan that would result in the total amount of such loans outstanding at that credit union at any one time to be equal to more than the lesser of—

''(A) 1.75 times the actual net worth of the credit union; or

''(B) 12.25 percent of the total assets of the credit union.

''(2) ADDITIONAL AUTHORITY.—The Board may approve an application by an insured credit union upon a finding that the credit union meets the criteria under this paragraph to make 1 or more member business loans that would result in a total amount of such loans outstanding at any one time of not more than 27.5 percent of the total assets of the credit union, if the credit union—

''(A) had member business loans outstanding at the end of each of the 4 consecutive quarters immediately preceding the date of the application, in a total amount of not less than 80 percent of the applicable limitation under paragraph (1);

''(B) is well capitalized, as defined in section 216(c)(1)(A);

''(C) can demonstrate at least 5 years of experience of sound underwriting and servicing of member business loans;

''(D) has the requisite policies and experience in managing member business loans; and

''(E) has satisfied other standards that the Board determines are necessary to maintain the safety and soundness of the insured credit union.

''(3) EFFECT OF NOT BEING WELL CAPITALIZED.—An insured credit union that has made member business loans under an authorization under paragraph (2) and that is not, as of its most recent quarterly call report, well capitalized, may not make any member business loans, until such time as the credit union becomes well capitalized, as reflected in a subsequent quarterly call report, and obtains the approval of the Board.''.

(b) IMPLEMENTATION.—

(1) TIERED APPROVAL PROCESS.—The Board shall develop a tiered approval process, under which an insured credit union gradually increases the amount of member business lending in a manner that is consistent with safe and sound operations, subject to the limits established under section 107A(a)(2) of the Federal Credit Union Act (as amended by this Act). The rate of increase under the process established under this paragraph may not exceed 30 percent per year.

(2) RULEMAKING REQUIRED.—The Board shall issue proposed rules, not later than 6 months after the date of enactment of this Act, to establish the tiered approval process required under paragraph (1). The tiered approval process shall establish standards designed to ensure that the new business lending capacity authorized under the amendment made by subsection (a) is being used

only by insured credit unions that are well-managed and well capitalized, as required by the amendments made under subsection (a) and as defined by the rules issued by the Board under this paragraph.

(3) CONSIDERATIONS.—In issuing rules required under this subsection, the Board shall consider—

(A) the experience level of the institutions, including a demonstrated history of sound member business lending;

(B) the criteria under section 107A(a)(2) of the Federal Credit Union Act, as amended by this Act; and

(C) such other factors as the Board determines necessary or appropriate.

(c) REPORTS TO CONGRESS ON MEMBER BUSINESS LENDING.—

(1) REPORT OF THE BOARD.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Board shall submit a report to Congress on member business lending by insured credit unions.

(B) REPORT.—The report required under subparagraph (A) shall include—

(i) the types and asset size of insured credit unions making member business loans and the member business loan limitations applicable to the insured credit unions;

(ii) the overall amount and average size of member business loans by each insured credit union;

(iii) the ratio of member business loans by insured credit unions to total assets and net worth;

(iv) the performance of the member business loans, including delinquencies and net charge offs;

(v) the effect of this section on the number of insured credit unions engaged in member business lending, any change in the amount of member business lending, and the extent to which any increase is attributed to the change in the limitation in section 107A(a) of the Federal Credit Union Act, as amended by this Act;

(vi) the number, types, and asset size of insured credit unions that were denied or approved by the Board for increased member business loans under section 107A(a)(2), as amended by this Act, including denials and approvals under the tiered approval process;

(vii) the types and sizes of businesses that receive member business loans, the duration of the credit union membership of the businesses at the time of the loan, the types of collateral used to secure member business loans, and the income level of members receiving member business loans; and

(viii) the effect of any increases in member business loans on the risk to the National Credit Union Share Insurance Fund and the assessments on insured credit unions.

(2) GAO STUDY AND REPORT.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the status of member business lending by insured credit unions, including—

(i) trends in such lending;

(ii) types and amounts of member business loans;

(iii) the effectiveness of this section in enhancing small business lending;

(iv) recommendations for legislative action, if any, with respect to such lending; and

(v) any other information that the Comptroller General considers relevant with respect to such lending.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the study required by subparagraph (A).

(d) DEFINITIONS.—In this section—

(1) the term ''Board'' means the National Credit Union Administration Board;

(2) the term ''insured credit union'' has the meaning given that term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(3) the term ''member business loan'' has the meaning given that term in section 107A(c)(1) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(1));

(4) the term ''net worth'' has the meaning given that term in section 107A(c)(2) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(2)); and

(5) the term ''well capitalized'' has the meaning given that term in section 216(c)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1709d(c)(1)(A)).

SA 4535. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 25, add the following:

SEC. 1137. SURETY BONDS.

Section 508(f) of division A of the American Recovery and Reinvestment Act of 2009 (15 U.S.C. 694a note) is repealed.

SA 4536. Mr. BENNET (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, after line 25, add the following:

SEC. 1137. TARGETED SMALL BUSINESS LENDING PILOT PROGRAM.

(a) IN GENERAL.—Section 23 of the Small Business Act (15 U.S.C. 650) is amended by adding at the end the following:

''(k) TARGETED SMALL BUSINESS LENDING PILOT PROGRAM.—

''(1) PURPOSE.—The purpose of the targeted small business lending pilot program is to increase the lending activity of small business lending companies to small business concerns operating in low-income communities.

''(2) DEFINITIONS.—In this subsection:

''(A) LOW-INCOME COMMUNITY.—The term 'low-income community' means a low-income community within the meaning of section 45D(e) of the Internal Revenue Code of 1986 (relating to the new markets tax credit).

''(B) TARGETED SMALL BUSINESS LENDING COMPANY.—The term 'targeted small business lending company' means a business concern—

''(i) described in section 3(r)(1), without regard to whether the business concern was authorized to make loans under section 7(a) before the date on which the Administrator authorizes the business concern to make the loans under this subsection;

''(ii) that has a primary mission of serving or providing investment capital for low-income communities, low-income persons, or businesses located in low-income communities;

''(iii) that maintains accountability to low-income communities through participation of representatives of the communities on a governing or an advisory board to the business concern;

''(iv) that has a demonstrated ability, directly or through a controlling entity, to make loans to businesses in low-income communities; and

''(v) that makes substantially all of the loans made by the business concern to businesses operating in low-income communities.

''(3) ESTABLISHMENT.—There is established a targeted small business lending pilot program, under which the Administrator—

''(A) shall authorize not more than 12 targeted small business lending companies to make loans under section 7(a); and

''(B) may not charge a fee relating to an authorization under subparagraph (A).

''(4) SAFETY AND SOUNDNESS REQUIREMENTS.—

''(A) PROHIBITION ON SALE OF AUTHORIZATION.—A targeted small business lending company may not sell the authorization of the targeted small business lending company to make loans under section 7(a).

''(B) GAO REVIEW.—During the 2-year period beginning on the date of enactment of this subsection, the Comptroller General of the United States shall—

''(i) review the oversight of targeted small business lending companies by the Administration; and

''(ii) submit periodic reports to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the review under clause (i).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r)(1) of the Small Business Act (15 U.S.C. 632(r)(1)) is amended by inserting '', including a targeted small business lending company authorized under section 23(k)'' before the period at the end.

SA 4537. Mr. CASEY submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, after line 21, add the following:

SEC. 1336. STUDY BY COMPTROLLER GENERAL.

(a) DEFINITIONS.—In this section—

(1) the terms ''HUBZone small business concern'', ''small business concern'', ''small business concern owned and controlled by service-disabled veterans'', and ''small business concern owned and controlled by women'' have the meaning given those terms under section 3 of the Small Business Act (15 U.S.C. 632);

(2) the term ''minority business enterprise'' means a small business concern that is unconditionally owned, controlled, and managed by an individual who is—

(A) a Black American;

(B) a Hispanic American;
(C) a Native American, including an American Indian, Eskimo, Aleut, or Native Hawaiian;
(D) an Asian Pacific American, including an individual having origins in any of the original peoples of Myanmar, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, North Korea, South Korea, the Philippines, a United States Trust Territory of the Pacific Islands (including the Republic of Palau), the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru;
(E) a Subcontinent Asian American, including an individual having origins in any of the original peoples of India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal; or
(F) a member of another minority group, as determined by the Administrator of the Small Business Administration;
(3) the term ''qualified HUBZone small business concern'' means a HUBZone small business concern that is qualified under section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)); and
(4) the term ''small business concern owned and controlled by socially and economically disadvantaged individuals'' has the meaning given that term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).
(b) STUDY REQUIRED.—The Comptroller General of the United States shall carry out a study on the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, qualified HUBZone small business concerns, minority business enterprises, and small business concerns owned and controlled by women in procurement contracts awarded using funds made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), which shall include—
(1) determining the percentage of all contracts awarded by Federal agencies and departments using funds made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116) that were awarded to—
(A) small business concerns owned and controlled by socially and economically disadvantaged individuals;
(B) minority business enterprises;
(C) small business concerns owned and controlled by women; and
(D) qualified HUBZone small business concerns; and
(2) evaluating whether Federal agencies and departments have met the Government-wide goals established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)) for procurement contracts awarded to small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women, with respect to procurement contracts awarded using funds made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116).
(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study required under subsection (b).

SA 4538. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 224, strike line 12 and all that follows through page 225, line 10, and insert the following:
(4) INELIGIBLE INSTITUTIONS.—
(A) INELIGIBILITY OF INSTITUTIONS ON FDIC PROBLEM BANK LIST.—
(i) IN GENERAL.—An eligible institution may not receive any capital investment under the Program, if—
(I) such institution is on the FDIC problem bank list; or
(II) such institution has been removed from the FDIC problem bank list for less than 90 days.
(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed as limiting the discretion of the Secretary to deny the application of an eligible institution that is not on the FDIC problem bank list.
(iii) FDIC PROBLEM BANK LIST DEFINED.—For purposes of this subparagraph, the term ''FDIC problem bank list'' means the list of depository institutions having a current rating of 4 or 5 under the Uniform Financial Institutions Rating System, or such other list designated by the Federal Deposit Insurance Corporation.
(B) INELIGIBILITY OF NON-PAYING CPP PARTICIPANTS.—
(i) IN GENERAL.—An eligible institution that has missed more than one dividend payment due under the CPP may not receive any capital investment under the Program.
(ii) DETERMINATION OF MISSED DIVIDEND PAYMENTS.—For purposes of this subparagraph, a CPP dividend payment that is submitted within 60 days of the due date of such payment shall not be considered a missed dividend payment.

SA 4539. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, between lines 3 and 4, insert the following:
(v) If the eligible institution notifies the Secretary in the application for a capital investment under the Program that the eligible institution elects to have such loans included as small business lending by the eligible institution, construction, land development, and other land loans.

SA 4540. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE _____—TAXPAYER FAIRNESS ACT

SEC. _001. SHORT TITLE.

This title may be cited as the ''Taxpayer Fairness Act''.

SEC. _002. FINDINGS.

Congress finds the following:
(1) During the years 2008 and 2009, the Nation's largest financial firms received extraordinary and unprecedented assistance from the public.
(2) Such assistance was critical to the success and in many cases the survival of these firms during the year 2009.
(3) High earners at such firms should contribute a portion of any excessive bonuses obtained for the year 2009 to help the Nation reduce the public debt and recover from the recession.

SEC. _003. EXCISE TAXES ON EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IMPOSITION OF TAX.—Chapter 46 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 4999A. EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives a covered excessive 2009 bonus a tax equal to 50 percent of the amount of such bonus.
''(b) DEFINITION.—For purposes of this section, the term 'covered excessive 2009 bonus' has the meaning given such term by section 280I(b).
''(c) ADMINISTRATIVE PROVISIONS AND SPECIAL RULES.—
''(1) WITHHOLDING.—
''(A) IN GENERAL.—In the case of any covered excessive 2009 bonus which is treated as wages for purposes of section 3402, the amount otherwise required to be deducted and withheld under such section shall be increased by the amount of the tax imposed by this section on such bonus.
''(B) BONUSES PAID BEFORE ENACTMENT.—In the case of any covered excessive 2009 bonus to which subparagraph (A) applies which is paid before the date of the enactment of this section, no penalty, addition to tax, or interest shall be imposed with respect to any failure to deduct and withhold the tax imposed by this section on such bonus.
''(2) TREATMENT OF TAX.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.
''(3) NOTICE REQUIREMENTS.—The Secretary shall require each major Federal emergency economic assistance recipient (as defined in section 280I(d)(1)) to notify, as soon as practicable after the date of the enactment of this section and at such other times as the Secretary determines appropriate, the Secretary and each covered employee (as defined in section 280I(e)) of the amount of covered excessive 2009 bonuses to which this section applies and the amount of tax deducted and withheld on such bonuses.
''(4) SECRETARIAL AUTHORITY.—The Secretary may prescribe such regulations, rules,

and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(A) to prescribe the due date and manner of payment of the tax imposed by this section with respect to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(B) to prevent—

''(i) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section,

''(ii) the treatment as other than an additional 2009 bonus payment of any payment of increased wages or other payments to a covered employee who receives a bonus payment subject to this section in order to reimburse such covered employee for the tax imposed by this section with regard to such bonus, or

''(iii) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

(b) CLERICAL AMENDMENTS.—

(1) The heading and table of sections for chapter 46 of the Internal Revenue Code of 1986 are amended to read as follows:

''CHAPTER 46—TAXES ON CERTAIN EXCESSIVE REMUNERATION

''Sec. 4999. Golden parachute payments.
''Sec. 4999A. Excessive 2009 bonuses received from major recipients of Federal emergency economic assistance.''.

(2) The item relating to chapter 46 in the table of chapters for subtitle D of such Code is amended to read as follows:

''Chapter 46. Taxes on certain excessive remuneration.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SEC. __004. LIMITATION ON DEDUCTION OF AMOUNTS PAID AS EXCESSIVE 2009 BONUSES BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 280I. EXCESSIVE 2009 BONUSES PAID BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) GENERAL RULE.—The deduction allowed under this chapter with respect to the amount of any covered excessive 2009 bonus shall not exceed 50 percent of the amount of such bonus.

''(b) COVERED EXCESSIVE 2009 BONUS.—For purposes of this section, the term 'covered excessive 2009 bonus' means any 2009 bonus payment paid during any calendar year to a covered employee by any major Federal emergency economic assistance recipient, to the extent that the aggregate of such 2009 bonus payments (without regard to the date on which such payments are paid) with respect to such employee exceeds the dollar amount of the compensation received by the President under section 102 of title 3, United States Code, for calendar year 2009.

''(c) 2009 BONUS PAYMENT.—

''(1) IN GENERAL.—The term '2009 bonus payment' means any payment which—

''(A) is a payment for services rendered,

''(B) is in addition to any amount payable to a covered employee for services performed by such covered employee at a regular hourly, daily, weekly, monthly, or similar periodic rate,

''(C) in the case of a retention bonus, is paid for continued service during calendar year 2009 or 2010, and

''(D) in the case of a payment not described in subparagraph (C), is attributable to services performed by a covered employee during calendar year 2009 (without regard to the year in which such payment is paid).

Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. In the case of a payment which is attributable to services performed during multiple calendar years, such payment shall be treated as a 2009 bonus payment to the extent it is attributable to services performed during calendar year 2009.

''(2) DEFERRED DEDUCTION BONUS PAYMENTS.—

''(A) IN GENERAL.—The term '2009 bonus payment' includes payments attributable to services performed in 2009 which are paid in the form of remuneration (within the meaning of section 162(m)(4)(E)) for which the deduction under this chapter (determined without regard to this section) for such payment is allowable in a subsequent taxable year.

''(B) TIMING OF DEFERRED DEDUCTION BONUS PAYMENTS.—For purposes of this section and section 4999A, the amount of any payment described in subparagraph (A) (as determined in the year in which the deduction under this chapter, determined without regard to this section, for such payment would be allowable) shall be treated as having been made in the calendar year in which any interest in such amount is granted to a covered employee (without regard to the date on which any portion of such interest vests).

''(3) RETENTION BONUS.—The term 'retention bonus' means any bonus payment (without regard to the date such payment is paid) to a covered employee which—

''(A) is contingent on the completion of a period of service with a major Federal emergency economic assistance recipient, the completion of a specific project or other activity for the major Federal emergency economic assistance recipient, or such other circumstances as the Secretary may prescribe, and

''(B) is not based on the performance of the covered employee (other than a requirement that the employee not be separated from employment for cause).

A bonus payment shall not be treated as based on performance for purposes of subparagraph (B) solely because the amount of the payment is determined by reference to a previous bonus payment which was based on performance.

''(d) MAJOR FEDERAL EMERGENCY ECONOMIC ASSISTANCE RECIPIENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'major Federal emergency economic assistance recipient' means—

''(A) any financial institution (within the meaning of section 3 of the Emergency Economic Stabilization Act of 2008) if at any time after December 31, 2007, the Federal Government acquires—

''(i) an equity interest in such person pursuant to a program authorized by the Emergency Economic Stabilization Act of 2008 or the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), or

''(ii) any warrant (or other right) to acquire any equity interest with respect to such person pursuant to any such program,

but only if the total value of the equity interest described in clauses (i) and (ii) in such person is not less than $5,000,000,000,

''(B) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

''(C) any person which is a member of the same affiliated group (as defined in section 1504, determined without regard to subsection (b) thereof) as a person described in subparagraph (A) or (B).

''(2) TREATMENT OF CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer with respect to any covered employee.

''(e) COVERED EMPLOYEE.—For purposes of this section, the term 'covered employee' means, with respect to any major Federal emergency economic assistance recipient—

''(1) any employee of such recipient, and

''(2) any director of such recipient who is not an employee.

In the case of any major Federal emergency economic assistance recipient which is a partnership or other unincorporated trade or business, the term 'employee' shall include employees of such recipient within the meaning of section 401(c)(1).

''(f) REGULATIONS.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(1) to prescribe the due date and manner of reporting and payment of any increase in the tax imposed by this chapter due to the application of this section to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(2) to prevent—

''(A) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section, or

''(B) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 280I. Excessive 2009 bonuses paid by major recipients of Federal emergency economic assistance.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (F) of section 162(m)(4) of the Internal Revenue Code of 1986 is amended—

(A) by inserting ''AND EXCESSIVE 2009 BONUSES'' after ''PAYMENTS'' in the heading,

(B) by striking ''the amount'' and inserting ''the total amounts'', and

(C) by inserting ''or 280I'' before the period.

(2) Subparagraph (A) of section 3121(v)(2) of such Code is amended by inserting '', to any covered excessive 2009 bonus (as defined in section 280I(b)),'' after ''section 280G(b))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SA 4541. Mr. DODD (for himself, Mr. COCHRAN, Ms. MIKULSKI, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page ____, line ____, insert the following:

SEC. ___. EXCLUSION FROM GROSS INCOME OF AMERICORPS EDUCATIONAL AWARDS.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 (relating to qualified scholarships) is amended by adding at the end the following:

''(e) AMERICORPS EDUCATIONAL AWARDS.—Gross income shall not include any national service educational award described in subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of enactment of this Act.

SA 4542. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 245, between lines 12 and 13, insert the following:

SEC. 4114. CONFORMING AMENDMENT.

Section 171(b)(5) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) debt or equity instruments of a depository institution holding company organized in the mutual form or as an S corporation that are issued to or purchased by the United States, or any agency or instrumentality thereof, under the Small Business Lending Fund Program during the 1-year period beginning on the date of enactment of the Small Business Jobs Act of 2010.''.

SA 4543. Mr. WEBB (for himself, Ms. LANDRIEU, Mr. NELSON of Florida, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

Subtitle C—Other Relief

SEC. ___. GUIDANCE ON TAX TREATMENT OF LOSSES RELATED TO TAINTED DRYWALL AS CASUALTY LOSS DEDUCTIONS.

Not later than the due date, including extension, for filing a return of tax for taxable year 2009, the Secretary of the Treasury shall issue guidance with respect to the availability of a casualty loss deduction under section 165(c)(3) of the Internal Revenue Code of 1986 for a taxpayer who has sustained a loss due to defective or tainted drywall, including drywall imported from China.

SA 4544. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, between lines 3 and 4, insert the following:

(v) If the eligible institution notifies the Secretary in the application for a capital investment under the Program that the eligible institution elects to have such loans included as small business lending by the eligible institution, construction, land development, and other land loans.

SA 4545. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, after line 24, add the following:

(c) WORKING CAPITAL EXPRESS PROGRAM.—

(1) PROGRAM ESTABLISHED.—

(A) WORKING CAPITAL EXPRESS PROGRAM.—Section 7(a)(31) of the Small Business Act (15 U.S.C. 636(a)(31)) is amended by adding at the end the following:

''(G) WORKING CAPITAL EXPRESS PROGRAM IN RESPONSE TO ECONOMIC CRISIS.—

''(i) LOAN GUARANTEES.—The Administrator may guarantee loans under the Express Loan Program made by lenders designated in accordance with clause (iii)(I) to small business concerns that have been in business for not less than 2 years before the date on which the small business concern submits an application for a loan under this subparagraph.

''(ii) LOAN TERMS.—

''(I) MINIMUM AMOUNT.—The Administrator may guarantee a loan under this subparagraph of not less than $100,000.

''(II) GUARANTEE RATE.—Notwithstanding subparagraph (A)(iii), the guarantee rate for a loan under this subparagraph shall be 75 percent.

''(iii) PROGRAM SAFEGUARDS.—

''(I) ELIGIBILITY.—The Administrator shall, by rule, establish criteria for the designation of lenders that are eligible to make a loan guaranteed under this subparagraph.

''(II) UNDERWRITING STANDARDS.—The Administrator shall, by rule, establish underwriting standards for loans guaranteed under this subparagraph, to ensure that the Administrator may guarantee new loans under this subparagraph until 1 year after the date of enactment of this subparagraph. The standards established under this subclause shall require the borrower to submit income tax returns to provide verification of business income.

''(III) PENALTIES FOR FRAUD.—Notwithstanding section 16, a lender that knowingly makes a false statement with respect to the income, assets, or other qualifications of a small business concern in connection with a loan or application for a loan guaranteed under this subparagraph shall be fined not more than $500,000, imprisoned for not more than 5 years, or both.

''(iv) AUTHORITY OF PARTICIPATING LENDERS.—A lender designated in accordance with clause (iii) shall have the same authority with respect to the underwriting and liquidation of a loan guaranteed under this subparagraph as a lender participating in the Certified Lenders Program under paragraph (19).

''(v) TOTAL AMOUNT OF LOANS.—The Administrator may guarantee a total of not more than $3,000,000,000 in loans under this subparagraph.

''(vi) DEFAULT RATE.—The Administrator shall calculate the default rate for loans guaranteed under this subparagraph separately from the default rate for any other loans made or guaranteed by the Administration.''.

(B) CONFORMING AMENDMENT.—Section 7(a)(25)(B) of the Small Business Act (15 U.S.C. 636(a)(25)(B)) is amended by inserting '', and does not include loans under paragraph (31)(G)'' after ''by law''.

(C) IMPLEMENTATION.—Not later than 45 days after the date of enactment of this Act, the Administrator shall begin guaranteeing loans under section 7(a)(31)(G) of the Small Business Act, as added by this subsection.

(2) FUNDING.—

(A) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, $75,000,000, to remain available until 1 year after the date of enactment of this Act, for an additional amount for the appropriations account appropriated under the heading ''BUSINESS LOANS PROGRAM ACCOUNT'' under the heading ''SMALL BUSINESS ADMINISTRATION'' for the cost of loan guarantees under section 7(a)(31)(G) of the Small Business Act, as added by this subsection.

(B) OFFSETS.—There are permanently rescinded from the appropriations account appropriated under the heading ''FEDERAL BUILDINGS FUND'' under the heading ''REAL PROPERTY ACTIVITIES'' under the heading ''GENERAL SERVICES ADMINISTRATION'', $50,000,000 from Rental of Space and $25,000,000 from Building Operations, to be derived from unobligated balances that were provided in previous appropriations Acts.

(3) PROSPECTIVE REPEAL.—

(A) IN GENERAL.—Effective 1 year after the date of enactment of this Act, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(i) in paragraph (25)(B), by striking '', and does not include loans under paragraph (31)(G)''; and

(ii) in paragraph (31), by striking subparagraph (G).

(B) PENALTIES.—Notwithstanding subparagraph (A), subclause (III) of section 7(a)(31)(G)(iii) of the Small Business Act, as added by this subsection, shall continue to apply on and after the date described in subparagraph (A), to loans guaranteed under section 7(a)(31)(G) of the Small Business Act.

(C) SAVINGS PROVISION.—A loan guaranteed under section 7(a)(31)(G) of the Small Business Act, as added by this subsection, before the date described in subparagraph (A) shall

remain in full force and effect under the terms, and for the duration, of the loan.

SA 4546. Mrs. LINCOLN (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. DIRECT PAYMENT OF ENERGY EFFICIENT APPLIANCES TAX CREDIT.

In the case of any taxable year which includes December 31, 2009, or December 31, 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for taxable years 2009 and 2010, but once made shall be irrevocable. No amount shall be includible in gross income or alternative minimum taxable income by reason of this section.

SA 4547. Mrs. LINCOLN (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) of the Internal Revenue Code of 1986 is amended by striking ''ending'' and all that follows through ''such date''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SA 4548. Mrs. LINCOLN (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REVISION OF BENEFITS.

(a) SAFE HARBOR FOR MEETING REQUIREMENT THAT 35 PERCENT OF EMPLOYEES BE RESIDENTS OF ZONE.—

(1) IN GENERAL.—Section 1397C of the Internal Revenue Code of 1986 (defining enterprise zone business) is amended by adding at the end the following new subsection:

''(g) ADDITIONAL SAFE HARBOR FOR MEETING REQUIREMENT THAT 35 PERCENT OF EMPLOYEES BE RESIDENTS OF ZONE.—The requirements of subsections (b)(6) and (c)(5) shall not fail to be treated as met for any period with respect to a qualified business if—

''(1) as of the date of issuance of an issue, the date property is placed in service, or the date of the sale of an asset, it is reasonably expected that within 3 years after such date the business will increase employment by at least the lesser of—

''(A) in the case of—

''(i) a business located in a renewal community or in a rural area (as defined in section 1393(a)(2)) in an empowerment zone or enterprise community, 500 full-time employees, or

''(ii) a business located outside a rural area (as so defined) in an empowerment zone or enterprise community, 1,000 full-time employees, or

''(B) 10 percent of the number of full-time employees estimated to have been employed in such zone or community on the date of its designation,

''(2) as of the date of issuance of the issue, it is reasonably expected that as a result of the bonds the business will increase employment by at least one job for each $150,000 in face amount of the issue,

''(3) at any time within 3 years after the date of the issuance of an issue, the date property is placed in service, or the date of the sale of an asset, the requirements of such subsections are met, or

''(4) the business enters into a binding agreement with the appropriate local government employment agency to apply a first source rule to advertise and prioritize employment opportunities with such business for qualified residents of such zone or community.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act, except that in the case of obligations which are outstanding on such date, such date shall be deemed the date of issuance for such obligations.

(b) ELIGIBILITY OF BUSINESSES DEVELOPING OR HOLDING INTANGIBLES.—

(1) IN GENERAL.—Paragraph (4) of section 1397C(d) of the Internal Revenue Code of 1986 is amended by inserting before the period ''unless the intangibles are developed within the empowerment zone''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(c) REDUCED WAGE CREDIT ALLOWABLE FOR ZONE RESIDENTS EMPLOYED OUTSIDE THE ZONE; EMPLOYEES NEED NOT BE RESIDENTS OF ZONE IN WHICH EMPLOYED.—

(1) IN GENERAL.—Subsection (b) of section 1396 of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) APPLICABLE PERCENTAGE.—

''(1) QUALIFIED ZONE EMPLOYEES WHO PERFORM SUBSTANTIALLY ALL OF THEIR SERVICES IN AN EMPOWERMENT ZONE.—The applicable percentage is 20 percent with respect to qualified zone employees who would meet the requirement of subsection (d)(1) if only services performed within an empowerment zone were taken into account.

''(2) OTHER QUALIFIED ZONE EMPLOYEES.—

''(A) IN GENERAL.—The applicable percentage is—

''(i) 20 percent in the case of designated qualified zone employees of employers which are enterprise zone businesses, and

''(ii) 10 percent in the case of any other designated qualified zone employee.

''(B) LIMITATIONS ON NUMBER OF DESIGNATED EMPLOYEES.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the term 'designated qualified zone employee' means a qualified zone employee—

''(I) to whom paragraph (1) does not apply, and

''(II) who is designated under this subparagraph.

''(ii) MANNER OF DESIGNATIONS.—Designations under this subparagraph shall be made by the local government or governments which nominated the area to be an empowerment zone.

''(iii) LIMITATION ON DESIGNATIONS.—The number of employees for whom a designation under this subparagraph is in effect at any one time with respect to each empowerment zone shall not exceed—

''(I) 500 for purposes of subparagraph (A)(i), and

''(II) 2,000 for purposes of subparagraph (A)(ii).''.

(2) QUALIFIED ZONE EMPLOYEE.—Paragraph (1) of section 1396(d) of such Code is amended—

(A) by striking ''within an empowerment zone'' in subparagraph (A), and

(B) by striking ''such empowerment zone'' in subparagraph (B) and inserting ''an empowerment zone''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(d) CARRYFORWARD OF UNALLOCATED STATE COMMERCIAL REVITALIZATION EXPENDITURE CEILING.—

(1) IN GENERAL.—Paragraph (1) of section 1400I(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The aggregate commercial revitalization expenditure amount which a commercial revitalization agency may allocate for any calendar year is the amount equal to the sum of—

''(A) the amount of the State commercial revitalization expenditure ceiling determined under this paragraph for such calendar year for such agency (determined without regard to subparagraph (B)), and

''(B) the aggregate of the unused State commercial revitalization expenditure ceilings determined under this paragraph for such agency for each of the 2 preceding calendar years.

For purposes of subparagraph (B), amounts of expenditure ceiling shall be treated as allocated by an agency first from unused amounts for the second preceding calendar year, then from unused amounts for the 1st preceding calendar year, and then from amounts from the current year State allocation.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to calendar years beginning after the date of the enactment of this Act.

(e) AUTHORITY TO EXPAND BOUNDARIES OF ZONES AND COMMUNITIES.—

(1) EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.—Section 1391 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(i) AUTHORITY TO EXPAND BOUNDARIES OF DESIGNATED AREAS.—

''(1) IN GENERAL.—At the request of all governments which nominated an area as an empowerment zone or enterprise community, the appropriate Secretary may expand the area of such zone or community to include 1 or more contiguous or noncontiguous areas if such governments establish to the satisfaction of the appropriate Secretary that such expansion furthers the purposes of the designation of the initial area as such a zone or community.

''(2) RURAL AREAS.—With respect to any empowerment zone or enterprise community located in a rural area, at the request of the nominating local government, the appropriate Secretary shall expand the area of such zone or community to include the entire area of such nominating local government, but only if—

''(A) either—

''(i) the poverty rate and the unemployment rate for such entire area as determined by the 2000 decennial census data was at least 110 percent of such rate for the United States, or

''(ii) during the period beginning with the 1990 decennial census and ending with the 2000 decennial census, such entire area has a net out migration of inhabitants of at least 10 percent of the population of such area, and

''(B) such entire area meets 1 or more of the following criteria determined by the 2000 decennial census data:

''(i) Median household income is not more than 70 percent of such income for the United States.

''(ii) Per capita income is not more than 75 percent of such income for the United States.

''(iii) The percentage of such area's population which is disabled is at least 130 percent of such percentage for the United States.''.

(2) RENEWAL COMMUNITIES.—Section 1400E of such Code is amended by adding at the end the following new subsection:

''(h) AUTHORITY TO EXPAND BOUNDARIES OF DESIGNATED AREAS.—

''(1) IN GENERAL.—At the request of all governments which nominated an area as a renewal community, the Secretary of Housing and Urban Development may expand the area of such community to include 1 or more noncontiguous areas if such governments establish to the satisfaction of such Secretary that such expansion furthers the purposes of the designation of the initial area as a renewal community.

''(2) RURAL AREAS.—With respect to any renewal community located in a rural area, at the request of the nominating local government, the Secretary of Housing and Urban Development shall expand the area of such community to include the entire area of such nominating local government, but only if—

''(A) either—

''(i) the poverty rate and the unemployment rate for such entire area as determined by the 2000 decennial census data was at least 110 percent of such rate for the United States, or

''(ii) during the period beginning with the 1990 decennial census and ending with the 2000 decennial census, such entire area has a net out migration of inhabitants of at least 10 percent of the population of such area, and

''(B) such entire area meets 1 or more of the following criteria determined by the 2000 decennial census data:

''(i) Median household income is not more than 70 percent of such income for the United States.

''(ii) Per capita income is not more than 75 percent of such income for the United States.

''(iii) The percentage of such area's population which is disabled is at least 130 percent of such percentage for the United States.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(f) ELECTION OF FINANCING ARRANGEMENT IN LIEU OF TAX BENEFITS.—

(1) IN GENERAL.—Section 1396 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(e) ELECTION OF FINANCING ARRANGEMENT IN LIEU OF TAX BENEFITS.—

''(1) IN GENERAL.—At the election of any significant empowerment zone business, for the payment period of the debt obligation designated in such election (or as an amendment to such election) by such business—

''(A) such business—

''(i) shall not be allowed an empowerment zone employment credit described in subsection (a), and

''(ii) shall not be allowed any deduction for depreciation under section 168 with respect to qualified zone property that provides a cost recovery benefit described in paragraph (2), and

''(B) the Secretary shall make the payments described in paragraph (2) to a trustee designated by the electing business to accept such payments on behalf of such holders).

''(2) PAYMENTS.—

''(A) IN GENERAL.—At the beginning of each year of the payment period, the Secretary shall pay (out of any money in the Treasury not otherwise appropriated) to the trustee designated by such business an amount equal to—

''(i) the empowerment zone employment credit computed for such year under this section as if the election was not made under this subsection, and

''(ii) except as provided in paragraph (4)(A), the amount equal to the cost recovery benefit divided by the number of years in the payment period described in subparagraph (C).

''(B) COST RECOVERY BENEFIT.—For purposes of subparagraph (A), the cost recovery benefit shall be an amount equal to 25 percent of—

''(i) the cost of any tangible property which is qualified zone property (including improvements to such tangible property) incurred by the significant empowerment zone business before the end of the first 5 full calendar years beginning after the date the election is made under this subsection, and

''(ii) any such cost for which a binding contract for financing the acquisition of such tangible property (including improvements to such tangible property) has been made by such business and which under the terms of the financing is to be incurred within the first 5 full calendar years beginning after the date of the election made under this subsection.

''(C) PAYMENT PERIOD.—The payment period is the period of 15 calendar years beginning with the earlier of—

''(i) the calendar year specified by the significant empowerment zone business as the 1st year of the payment period without regard to the date the property is placed in service, or

''(ii) the 5th calendar year beginning after the date that the election under this subsection is made.

''(3) SIGNIFICANT EMPOWERMENT ZONE BUSINESS.—For purposes of this subsection, the term 'significant empowerment zone business' means any trade or business operating in an empowerment zone if—

''(A) such business is nominated by the chief executive or the legislative body of the State or a local government in which the zone property is located, and

''(B) the Secretary of Housing and Urban Development determines that—

''(i) it is a facility for qualified research as defined in section 41(d) which is reasonably anticipated to make at least $50,000,000 of capital expenditures within the first 3 years of the payment period, or

''(ii) with respect to any other business, it is reasonably anticipated that such business will increase employment in such zone by the end of the first 3 years of the payment period by at least the lesser of—

''(I) 1,000 full-time employees or equivalents, or

''(II) 10 percent of the number of full-time employees estimated to have been employed in such zone on the date of its designation.

''(4) SPECIAL RULES.—

''(A) ADJUSTMENT TO COST RECOVERY BENEFIT.—In the event that the significant empowerment zone business does not incur a cost within the period described in paragraph (2)(B) and for which a cost recovery benefit payment is made under this subsection, the Secretary shall reduce future recovery benefit payments to recover 110 percent of the overpayments in equal installments over the remaining payment period. In the event that a cost described in paragraph (2)(B)(i) is incurred, or a contract described in paragraph (2)(B)(ii) is entered into, after the beginning of the payment period, the Secretary shall increase future recover benefit payments to recover 100 percent of the cost recovery benefit associated with such costs or contracts in equal installments over the remaining payment period.

''(B) BASIS ADJUSTMENT.—For purposes of this subtitle, if a cost recovery payment is made under this subsection with respect to any property, the basis of such property shall be reduced by the amount of such payment.

''(5) TREATMENT OF PAYMENTS.—Any payment made under this subsection shall not be treated as a Federal Government guarantee for purposes of section 149(b).''.

(2) CONFORMING AMENDMENT.—Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 1396(e)(4)(B).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SA 4549. Mrs. LINCOLN (for herself and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part II of subtitle A of title II, add the following:

SEC. _____. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) of such Code is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. _____. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) of the Internal Revenue Code of 1986 is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of paragraph (2), and

''(C) December 31, 2009, in any other case.''.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) of the Internal Revenue Code of 1986 is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of subsection (d)(2), and

''(C) December 31, 2009, in any other case.''.

(c) PAYMENT AUTHORITY.—

(1) IN GENERAL.—Paragraph (6) of section 6427(e) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting ''or (E)'' after ''subparagraph (D)''.

(d) EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.—The last sentence of section 6426(d)(2)of the Internal Revenue Code of 1986 is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SA 4550. Mr. WHITEHOUSE (for himself, Mr. BENNET, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. CORKER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. KAUFMAN, Mr. LEAHY, Mr. LEMIEUX, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. NELSON of Florida, Mr. PRYOR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, and Mr. WARNER) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 284, between lines 9 and 10, insert the following:

TITLE V—REGISTRATION OF AGENTS OF FOREIGN MANUFACTURERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS

SEC. 5001. FINDINGS.

Congress makes the following findings:

(1) Each year, many people in the United States are injured by defective products manufactured or produced by foreign entities and imported into the United States.

(2) Both consumers and businesses in the United States have been harmed by injuries to people in the United States caused by defective products manufactured or produced by foreign entities.

(3) People in the United States injured by defective products manufactured or produced by foreign entities often have difficulty recovering damages from the foreign manufacturers and producers responsible for such injuries.

(4) The difficulty described in paragraph (3) is caused by the obstacles in bringing a foreign manufacturer or producer into a United States court and subsequently enforcing a judgment against that manufacturer or producer.

(5) Obstacles to holding a responsible foreign manufacturer or producer liable for an injury to a person in the United States undermine the purpose of the tort laws of the United States.

(6) The difficulty of applying the tort laws of the United States to foreign manufacturers and producers puts United States manufacturers and producers at a competitive disadvantage because United States manufacturers and producers must—

(A) abide by common law and statutory safety standards; and

(B) invest substantial resources to ensure that they do so.

(7) Foreign manufacturers and producers can avoid the expenses necessary to make their products safe if they know that they will not be held liable for violations of United States product safety laws.

(8) Businesses in the United States undertake numerous commercial relationships with foreign manufacturers, exposing the businesses to additional tort liability when foreign manufacturers or producers evade United States courts.

(9) Businesses in the United States engaged in commercial relationships with foreign manufacturers or producers often cannot vindicate their contractual rights if such manufacturers or producers seek to avoid responsibility in United States courts.

(10) One of the major obstacles facing businesses and individuals in the United States who are injured and who seek compensation for economic or personal injuries caused by foreign manufacturers and producers is the challenge of serving process on such manufacturers and producers.

(11) An individual or business injured in the United States by a foreign company must rely on a foreign government to serve process when that company is located in a country that is a signatory to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters done at The Hague November 15, 1965 (20 UST 361; TIAS 6638).

(12) An injured person in the United States must rely on the cumbersome system of letters rogatory to effect service in a country that did not sign the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. These countries do not have an enforceable obligation to serve process as requested.

(13) The procedures described in paragraphs (11) and (12) add time and expense to litigation in the United States, thereby discouraging or frustrating meritorious lawsuits brought by persons injured in the United States against foreign manufacturers and producers.

(14) Foreign manufacturers and producers often seek to avoid judicial consideration of their actions by asserting that United States courts lack personal jurisdiction over them.

(15) The due process clauses of the fifth amendment to and section 1 of the fourteenth amendment to the Constitution govern United States courts' personal jurisdiction over defendants.

(16) The due process clauses described in paragraph (15) are satisfied when a defendant consents to the jurisdiction of a court.

(17) United States markets present many opportunities for foreign manufacturers.

(18) In choosing to export products to the United States, a foreign manufacturer or producer subjects itself to the laws of the United States. Such a foreign manufacturer or producer thereby acknowledges that it is subject to the personal jurisdiction of the State and Federal courts in at least one State.

SEC. 5002. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) foreign manufacturers and producers whose products are sold in the United States should not be able to avoid liability simply because of difficulties relating to serving process upon them;

(2) to avoid such lack of accountability, foreign manufacturers and producers of foreign products distributed in the United States should be required, by regulation, to register an agent in the United States who is authorized to accept service of process for such manufacturer or producer;

(3) it is unfair to United States consumers and businesses that foreign manufacturers and producers often seek to avoid judicial consideration of their actions by asserting that United States courts lack personal jurisdiction over them;

(4) those who benefit from exporting products to United States markets should expect to be subject to the jurisdiction of at least one court within the United States;

(5) exporting products to the United States should be understood as consent to the accountability that the legal system of the United States ensures for all manufacturers and producers, foreign, and domestic;

(6) exporters recognize the scope of opportunities presented to them by United States markets but also should recognize that products imported into the United States must satisfy Federal and State safety standards established by statute, regulation, and common law;

(7) foreign manufacturers should recognize that they are responsible for the contracts they enter into with United States companies;

(8) foreign manufacturers should act responsibly and recognize that they operate within the constraints of the United States legal system when they export products to the United States;

(9) United States laws and the laws of United States trading partners should not put burdens on foreign manufacturers and

producers that do not apply to domestic companies;

(10) it is fair to ensure that foreign manufacturers, whose products are distributed in commerce in the United States, are subject to the jurisdiction of State and Federal courts in at least one State because all United States manufacturers are subject to the jurisdiction of the State and Federal courts in at least one State; and

(11) it should be understood that, by registering an agent for service of process in the United States, the foreign manufacturer or producer acknowledges consent to the jurisdiction of the State in which the registered agent is located.

SEC. 5003. DEFINITIONS.

In this title:

(1) APPLICABLE AGENCY.—The term ''applicable agency'' means, with respect to covered products—

(A) described in subparagraphs (A) and (B) of paragraph (4), the Food and Drug Administration;

(B) described in paragraph (4)(C), the Consumer Product Safety Commission;

(C) described in subparagraphs (D) and (E) of paragraph (4), the Environmental Protection Agency; and

(D) described in subparagraph (F) of paragraph (4)—

(i) the Food and Drug Administration, if the item is intended to be a component part of a product described in subparagraphs (A) and (B) of paragraph (4);

(ii) the Consumer Product Safety Commission, if the item is intended to be a component part of a product described in paragraph (4)(C); and

(iii) the Environmental Protection Agency, if the item is intended to be a component part of a product described in subparagraphs (D) and (E) of paragraph (4).

(2) COMMERCE.—The term ''commerce'' means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside of the State; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(3) COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.—The term ''Commissioner of U.S. Customs and Border Protection'' means the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security.

(4) COVERED PRODUCT.—The term ''covered product'' means any of the following:

(A) Drugs, devices, and cosmetics, as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) A biological product, as such term is defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

(C) A consumer product, as such term is used in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052).

(D) A chemical substance or new chemical substance, as such terms are defined in section 3 of the Toxic Substances Control Act (15 U.S.C. 2602).

(E) A pesticide, as such term is defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

(F) An item intended to be a component part of a product described in subparagraph (A), (B), (C), (D), or (E) but is not yet a component part of such product.

(5) DISTRIBUTE IN COMMERCE.—The term ''distribute in commerce'' means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

SEC. 5004. REGISTRATION OF AGENTS OF FOREIGN MANUFACTURERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS IN THE UNITED STATES.

(a) REGISTRATION.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and except as otherwise provided in this subsection, the head of each applicable agency shall require foreign manufacturers and producers of covered products distributed in commerce to establish a registered agent in the United States who is authorized to accept service of process on behalf of such manufacturer or producer—

(A) for the purpose of any civil or regulatory proceeding in State or Federal court relating—

(i) to a covered product; and

(ii) to—

(I) commerce in the United States;

(II) an injury or damage suffered in the United States; or

(III) conduct within the United States; and

(B) if such service is made in accord with the State or Federal rules for service of process in the State of the civil or regulatory proceeding.

(2) LOCATION.—The head of each applicable agency shall require that an agent of a foreign manufacturer or producer registered under this subsection with respect to a covered product be located in a State with a substantial connection to the importation, distribution, or sale of the covered product.

(3) MINIMUM SIZE.—This subsection shall only apply to foreign manufacturers and producers that manufacture or produce covered products in excess of a minimum value or quantity the head of the applicable agency shall prescribe by rule for purposes of this section. Such rules may include different minimum values or quantities for different subcategories of covered products prescribed by the head of the applicable agency for purposes of this section.

(b) REGISTRY OF AGENTS OF FOREIGN MANUFACTURERS.—

(1) IN GENERAL.—The Secretary of Commerce shall, in cooperation with each head of an applicable agency, establish and keep up to date a registry of agents registered under subsection (a).

(2) AVAILABILITY.—The Secretary of Commerce shall make the registry established under paragraph (1) available—

(A) to the public through the Internet website of the Department of Commerce; and

(B) to the Commissioner of U.S. Customs and Border Protection.

(c) CONSENT TO JURISDICTION.—A foreign manufacturer or producer of covered products that registers an agent under this section thereby consents to the personal jurisdiction of the State or Federal courts of the State in which the registered agent is located for the purpose of any civil or regulatory proceeding relating—

(1) to a covered product; and

(2) to—

(A) commerce in the United States;

(B) an injury or damage suffered in the United States; or

(C) conduct within the United States.

(d) DECLARATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, any person importing a covered product manufactured outside the United States shall provide a declaration to U.S. Customs and Border Protection that—

(A) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter of the covered product and consulting the registry of agents of foreign manufacturers described in subsection (b); and

(B) to the best of the person's knowledge, with respect to each importation of a covered product, the foreign manufacturer or producer of the product has established a registered agent in the United States as required under subsection (a).

(2) PENALTIES.—Any person who fails to provide a declaration required under paragraph (1), or files a false declaration, shall be subject to any applicable civil or criminal penalty, including seizure and forfeiture, that may be imposed under the customs laws of the United States or title 18, United States Code, with respect to the importation of a covered product.

(e) REGULATIONS.—Not later than the date described in subsection (a)(1), the Secretary of Commerce, the Commissioner of U.S. Customs and Border Protection, and each head of an applicable agency shall prescribe regulations to carry out this section, including the establishment of minimum values and quantities under subsection (a)(3).

SEC. 5005. STUDY ON REGISTRATION OF AGENTS OF FOREIGN FOOD PRODUCERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS IN THE UNITED STATES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture and the Commissioner of Food and Drugs shall jointly—

(1) complete a study on the feasibility and advisability of requiring foreign producers of food distributed in commerce to establish a registered agent in the United States who is authorized to accept service of process on behalf of such producers for the purpose of all civil and regulatory actions in State and Federal courts; and

(2) submit to Congress a report on the findings of the Secretary with respect to such study.

SEC. 5006. STUDY ON REGISTRATION OF AGENTS OF FOREIGN MANUFACTURERS AND PRODUCERS OF COMPONENT PARTS WITHIN COVERED PRODUCTS.

Not later than 1 year after the date of the enactment of this Act, the head of each applicable agency shall—

(1) complete a study on determining feasible and advisable methods of requiring manufacturers or producers of component parts within covered products manufactured or produced outside the United States and distributed in commerce to establish registered agents in the United States who are authorized to accept service of process on behalf of such manufacturers or producers for the purpose of all civil and regulatory actions in State and Federal courts; and

(2) submit to Congress a report on the findings of the head of the applicable agency with respect to the study.

SEC. 5007. RELATIONSHIP WITH OTHER LAWS.

Nothing in this title shall affect the authority of any State to establish or continue in effect a provision of State law relating to service of process or personal jurisdiction, except to the extent that such provision of law is inconsistent with the provisions of this title, and then only to the extent of such inconsistency.

SA 4551. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF UNEARNED INCOME MEDICARE CONTRIBUTION.

Section 1402 of the Health Care and Education Reconciliation Act of 2010 and the amendments made by such section are repealed.

SA 4552. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY.

(a) UNITED STATES CUSTOMS AND BORDER PROTECTION.—

(1) REQUIREMENT FOR ADDITIONAL AGENTS.—Not later than January 1, 2015, the Secretary of Homeland Security shall increase the number of trained Customs and Border Patrol agents stationed along the international border between the United States and Mexico border by 6,000, compared to the number of agents at such locations as of the date of the enactment of this Act to increase security and expedite cross border trade. The Secretary shall make progress in increasing such number of trained Customs and Border Patrol agents during each of the years 2010 through 2015.

(2) OFFSETTING RESCISSION.—On the date of the enactment of this Act, the unobligated balance of each amount appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), other than under title X of such division, is hereby rescinded pro rata such that the aggregate amount of such rescissions equals $1,200,000,000.

(b) OPERATION STREAMLINE.—

(1) APPROPRIATION OF FUNDS.—To fully fund multi-agency law enforcement initiatives that address illegal crossings of the Southwest border, including those in the Tucson Sector, as authorized under title II of division B and title III of division C of the Consolidated Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3034), $200,000,000 for fiscal year 2011, of which—

(A) $155,000,000 shall be available for the Department of Justice for—

(i) hiring additional Deputy United States Marshals;

(ii) constructing additional permanent and temporary detention space; and

(iii) other established and related needs of the Secretary of Homeland Security and the Attorney General; and

(B) $45,000,000 shall be available for the Judiciary for—

(i) courthouse renovation;

(ii) administrative support, including hiring additional clerks for each District to process additional criminal cases; and

(iii) hiring additional judges.

(2) OFFSETTING RESCISSION.—On the date of the enactment of this Act, the unobligated balance of each amount appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), other than under title X of such division, is hereby rescinded pro rata such that the aggregate amount of such rescissions equals $200,000,000.

SA 4553. Mrs. LINCOLN (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of part IV of subtitle A of title II, insert the following:

SEC. _____. INCREASE IN LIMITATION FOR ALTERNATIVE TAX LIABILITY FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(i) the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $2,025,000, and''.

(b) INFLATION ADJUSTMENT.—Paragraph (2) of section 831(b) of such Code is amended by adding at the end the following new subparagraph:

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2010, the dollar amount set forth in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 4554. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4___. ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.

In chapter 2 of title I of the Act entitled ''An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes'', strike the matter under the heading ''ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'' under the heading ''ECONOMIC DEVELOPMENT ADMINISTRATION'' under the heading ''DEPARTMENT OF COMMERCE'' and insert the following:

''Pursuant to section 703 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3233), for an additional amount for ''`Economic Development Assistance Programs''', for necessary expenses relating to disaster relief, long-term recovery, and restoration of infrastructure in areas affected by flooding for which the President declared a major disaster during the period beginning on March 29, 2010, and ending on May 7, 2010, which included individual assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), $49,000,000, to remain available until expended: *Provided*, That not more than 50 percent of the amount provided under this heading shall be allocated to any State.''.

SA 4555. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, after line 25, insert the following:

SEC. 1705. COMMUNITY DEVELOPMENT FUNDS.

Chapter 11 of title I of the Supplemental Appropriations Act, 2010, is amended by striking the heading ''Community Development Fund'' and all the matter that follows through the ninth proviso under such heading and inserting the following:

''COMMUNITY DEVELOPMENT FUND

''For an additional amount for the 'Community Development Fund', for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by flooding for which the President declared a major disaster between March 29, 2010, and May 7, 2010, which included Individual Assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, $100,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93–383): *Provided*, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: *Provided further*, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: *Provided further*, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the

obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That the Secretary shall obligate to a State or subdivision thereof not less than 50 percent of the funding provided under this heading within 90 days after the enactment of this Act: *Provided further*, That not more than 50 percent of the funding provided under this heading shall be allocated to any State (including units of general local government).''.

SA 4556. Mr. ROCKEFELLER (for himself and Mr. GOODWIN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 284, between lines 9 and 10, insert the following:

PART IV—COAL ACCOUNTABILITY AND RETIRED EMPLOYEES

SEC. 4271. AMENDMENT OF SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

Section 402(i)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(2)) is amended—

(1) by striking ''Subject to'' and inserting the following:

''(A) IN GENERAL.—Subject to'';

(2) by adding at the end the following:

''(B) EXCESS AMOUNTS.—

''(i) IN GENERAL.—Subject to paragraph (3), and after all transfers referred to in paragraph (1) and subparagraph (A) of this paragraph have been made, any amounts remaining after the application of paragraph (3)(A) (without regard to this subparagraph) shall be transferred to the trustees of the 1974 UMWA Pension Plan and used solely to pay pension benefits required under such plan.

''(ii) 1974 UMWA PENSION PLAN.—In this subparagraph, the term '1974 UMWA Pension Plan' means a pension plan referred to in section 9701(a)(3) of the Internal Revenue Code of 1986 but without regard to whether participation in such plan is limited to individuals who retired in 1976 and thereafter.''.

SA 4557. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, between lines 3 and 4, insert the following:

(v) If the eligible institution notifies the Secretary in the application for a capital investment under the Program that the eligible institution elects to have such loans included as small business lending by the eligible institution, construction, land development, and other land loans.

SA 4558. Mrs. HUTCHISON (for herself, Mr. GRAHAM, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B, add the following:

PART _____—TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

SEC. 4_____. TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM.

(a) FUNDING.—The matter under the heading ''TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM'' of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 619) is amended, in the matter preceding the first proviso—

(1) by striking ''$47,000,000,000'' and inserting ''$56,000,000,000''; and

(2) by striking ''$18,500,000,000'' and inserting ''$27,500,000,000''.

(b) USE OF STIMULUS FUNDS TO OFFSET SPENDING.—

(1) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this section and the amendments made by this section.

(2) REPORT.—The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under paragraph (1) that are within the jurisdiction of the committee.

SA 4559. Mr. HATCH (for himself and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

PART V—OTHER PROVISIONS

SEC. _____. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SA 4560. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.__. There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for an additional amount for ''Salaries and Expenses'' of the United States Patent and Trademark Office, $129,000,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2010, so as to result in a fiscal year 2010 appropriation from the general fund estimated at $0: *Provided further*, That during fiscal year 2010, should the total amount of offsetting fee collections be less than $2,016,000,000, this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of $2,016,000,000 in fiscal year 2010, in an amount up to $150,000,000, shall remain available until expended: *Provided further*, That $129,000,000 in prior year unobligated balances available to ''Periodic Censuses and Programs'' of the Bureau of the Census, Department of Commerce, are hereby rescinded.

SA 4561. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE _____

BORDER SECURITY

CHAPTER 1

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $253,900,000, to remain available until September 30, 2011, of which $39,000,000 shall be for costs to maintain U.S. Customs and Border Protection Officer staffing on the Southwest Border of the United States, $29,000,000 shall be for hiring additional U.S. Customs and Border Protection Officers for deployment at ports of entry on the Southwest Border of the United States, $175,900,000 shall be for hiring additional Border Patrol agents for deployment to the Southwest Border of the United States, and $10,000,000 shall be to support integrity and background investigation programs.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for ''Border Security Fencing, Infrastructure, and Technology,'' $14,000,000, to remain available until September 30, 2011, for costs of designing, building, and deploying tactical communications for support of enforcement activities on the Southwest Border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'', $32,000,000, to remain available until September 30, 2012, for costs of acquisition and deployment of unmanned aircraft systems.

CONSTRUCTION AND FACILITIES MANAGEMENT

For an additional amount for ''Construction and Facilities Management'', $6,000,000, to remain available until September 30, 2011, for costs to construct up to two forward operating bases for use by the Border Patrol to carry out enforcement activities on the Southwest Border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for 'Salaries and Expenses', $80,000,000, to remain available until September 30, 2011, of which $30,000,000 shall be for law enforcement activities targeted at reducing the threat of violence along the Southwest Border of the United States and $50,000,000 shall be for hiring of additional agents, investigators, intelligence analysts, and support personnel.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $8,100,000, to remain available until September 30, 2011, for costs to provide basic training for new U.S. Customs and Border Protection Officers, Border Patrol agents, and U.S. Immigration and Customs Enforcement personnel.

(RESCISSION)

SEC. ___101. From unobligated balances of prior year appropriations made available to ''U.S. Customs and Border Protection—Border Security Fencing, Infrastructure, and Technology'', $100,000,000 are rescinded: *Provided*, That section ___01 of chapter 4 of this title shall not apply to the amount in this section.

CHAPTER 2

SEC. ___201. For an additional amount for the Department of Justice for necessary expenses for increased law enforcement activities related to Southwest border enforcement, $196,000,000, to remain available until September 30, 2011: *Provided*, That funds shall be distributed to the following accounts and in the following specified amounts:

(1) ''Administrative Review and Appeals'', $2,118,000;

(2) ''Detention Trustee'', $7,000,000;

(3) ''Legal Activities, Salaries and Expenses, General Legal Activities'', $3,862,000;

(4) ''Legal Activities, Salaries and Expenses, United States Attorneys'', $9,198,000;

(5) ''United States Marshals Service, Salaries and Expenses'', $29,651,000;

(6) ''United States Marshals Service, Construction'', $8,000,000;

(7) ''Interagency Law Enforcement, Interagency Crime and Drug Enforcement'', $21,000,000;

(8) ''Federal Bureau of Investigation, Salaries and Expenses'', $24,000,000;

(9) ''Drug Enforcement Administration, Salaries and Expenses'', $33,671,000;

(10) ''Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses'', $37,500,000; and

(11) ''Federal Prison System, Salaries and Expenses'', $20,000,000.

CHAPTER 3

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $10,000,000, to remain available until September 30, 2011: *Provided,* That notwithstanding section 302 of division C of Public Law 111–117, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives.

CHAPTER 4

GENERAL PROVISION

SEC. ___01. Each amount in this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Senate Subcommittee on Energy has been postponed. The hearing was to be held on Tuesday, August 3, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to examine the role of strategic minerals in clean energy technologies and other applications as well as legislation to address the issue, including S. 3521 the ''Rare Earths Supply Technology and Resources Transformation Act of 2010''.

For further information, please contact Allyson Anderson or Rosemarie Calabro.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet during the session of the Senate on July 28, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on July 28, 2010, at 2:30 p.m. in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 28, 2010, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on July 28, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 28, 2010, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 28, 2010, at 10 a.m., in room SD–226 of the Dirksen Senate Office building, to conduct a hearing entitled ''Oversight of the Federal Bureau of Investigation.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 28, 2010, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on July 28, 2010, at 10:30 a.m., to conduct a hearing entitled ''Examining the Filibuster: Legislative Proposals to Change Senate Procedures.''

The PRESIDING OFFICER. Without objection, it is so ordered.

AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION AND THE AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration and the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 28, 2010, at 3 p.m. to conduct a hearing entitled, ''Flood Preparedness and Mitigation: Map Modernization, Levee Inspection, and Levee Repairs.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that a fellow from my office, Ms. Anna-Marie Laura, be granted floor privileges for the remainder of this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

CELL PHONE CONTRABAND ACT OF 2010

Mr. WHITEHOUSE. Mr. President, I ask the chair to lay before the Senate a message from the House with respect to S. 1749.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved, That the bill from the Senate (S. 1749) entitled ''An Act to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cell Phone Contraband Act of 2010''.

SEC. 2. WIRELESS DEVICES IN PRISON.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or (d)(1)(E)'' and inserting '', (d)(1)(E), or (d)(1)(F)''; and

(B) in paragraph (5), by striking ''(d)(1)(F)'' and inserting ''(d)(1)(G)''; and

(2) in subsection (d)(1)—

(A) in subparagraph (E), by striking ''and'' at the end;

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following:

''(F) a phone or other device used by a user of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))) in connection with such service; and''.

SEC. 3. GAO STUDY.

Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress with research and findings on the following issues:

(1) A study of telephone rates within Federal prisons to include information on interstate, intrastate and collect calls made by prisoners, including—

(A) the costs of operating inmate telephone services;

(B) the general cost to prison telephone service providers of providing telephone services to the Federal prisons;

(C) the revenue obtained from inmate telephone systems;

(D) how the revenue from these systems is used by the Bureau of Prisons; and

(E) options for lowering telephone costs to inmates and their families, while still maintaining sufficient security.

(2) A study of selected State and Federal efforts to prevent the smuggling of cell phones and other wireless devices into prisons, including efforts that selected State and Federal authorities are making to minimize trafficking of cell phones by guards and other prison officials and recommendations to reduce the number of cell phones that are trafficked into prisons.

(3) A study of cell phone use by inmates in selected State and Federal prisons, including—

(A) the quantity of cell phones confiscated by authorities in selected State and Federal prisons; and

(B) the reported impact, if any, of: (1) inmate cell phone use on the overall security of prisons; and (2) connections to criminal activity from within prisons.

SEC. 4. COMPLIANCE WITH PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

Mr. WHITEHOUSE. I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CHILD AWARENESS MONTH

Mr. WHITEHOUSE. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 598, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 598) designating September 2010 as ''National Child Awareness Month'' to promote awareness of charities benefitting children and youth-serving organizations throughout the United States and recognizing efforts made by these charities and organizations on behalf of children and youth as critical contributions to the future of the Nation.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 598) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 598

Whereas millions of children and youth in the United States represent the hopes and future of the United States;

Whereas numerous individuals, charities benefitting children, and youth-serving organizations that work with children and youth collaborate to provide invaluable services to enrich and better the lives of children and youth throughout the United States;

Whereas raising awareness of and increasing support for organizations that provide access to healthcare, social services, education, the arts, sports, and other services will result in the development of character and the future success of the children and youth of the Nation;

Whereas September, as the school year begins, is a time when parents, families, teachers, school administrators, and communities increase their focus on children and youth throughout the United States;

Whereas September is a time for the people of the United States to highlight and be mindful of the needs of children and youth;

Whereas private corporations and businesses have joined with hundreds of national and local charitable organizations throughout the United States in support of a month-long focus on children and youth; and

Whereas designating September 2010 as ''National Child Awareness Month'' would recognize that a long-term commitment to children and youth is in the public interest, and will encourage widespread support for charities and organizations that seek to provide a better future for the children and youth of the United States: Now, therefore, be it

Resolved, That the Senate designates September 2010 as ''National Child Awareness Month''—

(1) to promote awareness of charities benefitting children and youth-serving organizations throughout the United States; and

(2) to recognize efforts made by such charities and organizations on behalf of children and youth as critical contributions to the future of the Nation.

NATIONAL AIRBORNE DAY

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to the consideration of S. Res. 599, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 599) designating August 16, 2010, as ''National Airborne Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 599) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 599

Whereas the airborne forces of the Armed Forces have a long and honorable history as units of bold and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United

States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas the United States experiment with airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the Department of War and was launched when 48 volunteers began training in July 1940;

Whereas August 16 marks the anniversary of the first official Army parachute jump on August 16, 1940, to test the innovative concept of inserting United States ground combat forces behind a battle line by means of parachute;

Whereas the success of the Army Parachute Test Platoon in the days immediately before the entry of the United States into World War II led to the formation of a formidable force of airborne units that have served with distinction and have had repeated success in armed hostilities;

Whereas among those first airborne units are the former 11th, 13th, and 17th Airborne Divisions, the current 82nd and 101st Airborne Divisions, and the later airborne regiments and battalions (some as components of those divisions and some as separate units) that achieved distinction as the 75th Ranger Regiment, the 173rd Airborne Brigade Combat Team, the 187th Infantry (Airborne) Regiment, which is the only airborne unit to have served as a Glider, Parachute, and Air Assault Regiment, the 501st, 502nd, 503rd, 504th, 505th, 506th, 507th, 508th, 509th, 511th, 513th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th, 127th, 193rd, 194th, 325th, 326th, 327th, and 401st Glider Infantry Regiments, the 509th, 550th, 551st, and 555th Parachute Infantry Battalions, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II prompted the evolution of those forces into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas since the terrorist attacks on September 11, 2001, United States paratroopers, which include members of the XVIII Airborne Corps, the 82nd Airborne Division, the 101st Airborne Division (Air Assault), the 173rd Airborne Brigade Combat Team, the 4th Brigade (Airborne) of the 25th Infantry Division, the 75th Ranger Regiment, and special forces units, together with other units of the Armed Forces, have demonstrated bravery and honor in combat operations, civil affairs missions, and training operations in Afghanistan and Iraq;

Whereas the modern day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance units, Navy SEALs, Air Force combat control teams, pararescue, and weather teams, all of which are part of the United States Special Operations Command;

Whereas of the members and former members of the United States airborne forces, thousands have achieved the distinction of making combat jumps, dozens have earned the Medal of Honor, and hundreds have earned the Distinguished Service Cross, the Silver Star Medal, or other decorations and awards for displays heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States airborne forces are all members of a proud and honorable tradition that, together with their special skills and achievements, distinguishes them as intrepid combat parachutists, air assault forces, special operation forces, and, in former days, glider troops;

Whereas the history and achievements of the members and former members of the United States airborne forces warrant special expressions of the gratitude of the people of the United States; and

Whereas, since the airborne community celebrates August 16 as the anniversary of the first official jump by the Army Parachute Test Platoon, August 16 would be an appropriate day to recognize as National Airborne Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2010, as ''National Airborne Day''; and

(2) calls on the people of the United States to observe National Airborne Day with appropriate programs, ceremonies, and activities.

SELECT COMMITTEE ON INTELLIGENCE AUTHORIZATION

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 600, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 600) to authorize document production and testimony by, and representation of, the Select Committee on Intelligence.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, the Select Committee on Intelligence has received a request from the Department of Justice for records, created by the committee in the course of its oversight work, pertinent to a pending investigation into the unauthorized disclosure of classified national security information by someone not connected with the committee.

This resolution would authorize the chairman and vice chairman of the Select Committee on Intelligence, acting jointly, to provide records, created by the committee in the course of oversight, in response to this request from the Department of Justice.

Because the Department of Justice may seek testimony at some point from staff of the committee, the resolution would also authorize former and current employees of the committee to testify in proceedings arising out of this matter, except where a privilege should be asserted, and to he represented by the Senate legal counsel.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 600) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, the United States Department of Justice has requested that the Senate Select Committee on Intelligence provide it with documents in connection with a pending investigation into the unauthorized disclosure of classified national security information;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent former or current employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Senate Select Committee on Intelligence, acting jointly, are authorized to provide to the United States Department of Justice, under appropriate security procedures, copies of Committee documents sought in connection with a pending investigation into the unauthorized disclosure of classified national security information, and former and current employees of the Committee are authorized to testify in proceedings arising out of that investigation, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent the Select Committee on Intelligence, and any former or current employee of the Committee from whom testimony may be required, in connection with the testimony and document production authorized in section one of this resolution.

MEASURE READ THE FIRST TIME—S. 3663

Mr. WHITEHOUSE. Mr. President, I understand that S. 3663, introduced earlier today by Senator REID, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 3663) to promote clean energy jobs and oil company accountability, and for other purposes.

Mr. WHITEHOUSE. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, JULY 29, 2010

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Thursday, July 29; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two

leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of H.R. 5297, the small business jobs bill, with 1 hour for debate prior to the cloture vote, with the time equally divided and controlled between the two leaders or their designees and with Senators permitted to speak therein for up to 10 minutes each, with the final 10 minutes reserved for the two leaders or their designees, with the majority leader controlling the final 5 minutes. Finally, I ask consent that the filing deadline for second-degree amendments be 10 o'clock a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WHITEHOUSE. Mr. President, I am advised to inform my colleagues that at approximately 10:40 a.m. tomorrow, there will be a cloture vote on the Baucus-Landrieu substitute amendment No. 4519 to the small business jobs bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:02 p.m., adjourned until Thursday, July 29, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

MARIA ELIZABETH RAFFINAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE ODESSA F. VINCENT, RETIRED.

MARINA GARCIA MARMOLEJO, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS, VICE SAMUEL B. KENT, RESIGNED.

DEPARTMENT OF JUSTICE

M. SCOTT BOWEN, OF MICHIGAN, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS, VICE MARGARET M. CHIARA, RESIGNED.

RIPLEY RAND, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE ANNA MILLS S. WAGONER, TERM EXPIRED.

BEVERLY JOYCE HARVARD, OF GEORGIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS, VICE RICHARD VAUGHN MECUM, TERM EXPIRED.

DAVID MARK SINGER, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE ADAM NOEL TORRES, TERM EXPIRED.